

INVESTIGATION INTO MINORITY AND WOMEN BUSINESS

PARTICIPATION IN CITY CONTRACTING:

COMPREHENSIVE EDITION:

[V. 1. 22]

FINDINGS, RECOMMENDATIONS AND SUPPORT DOCUMENTATION

DOCUMENTS DEPT.

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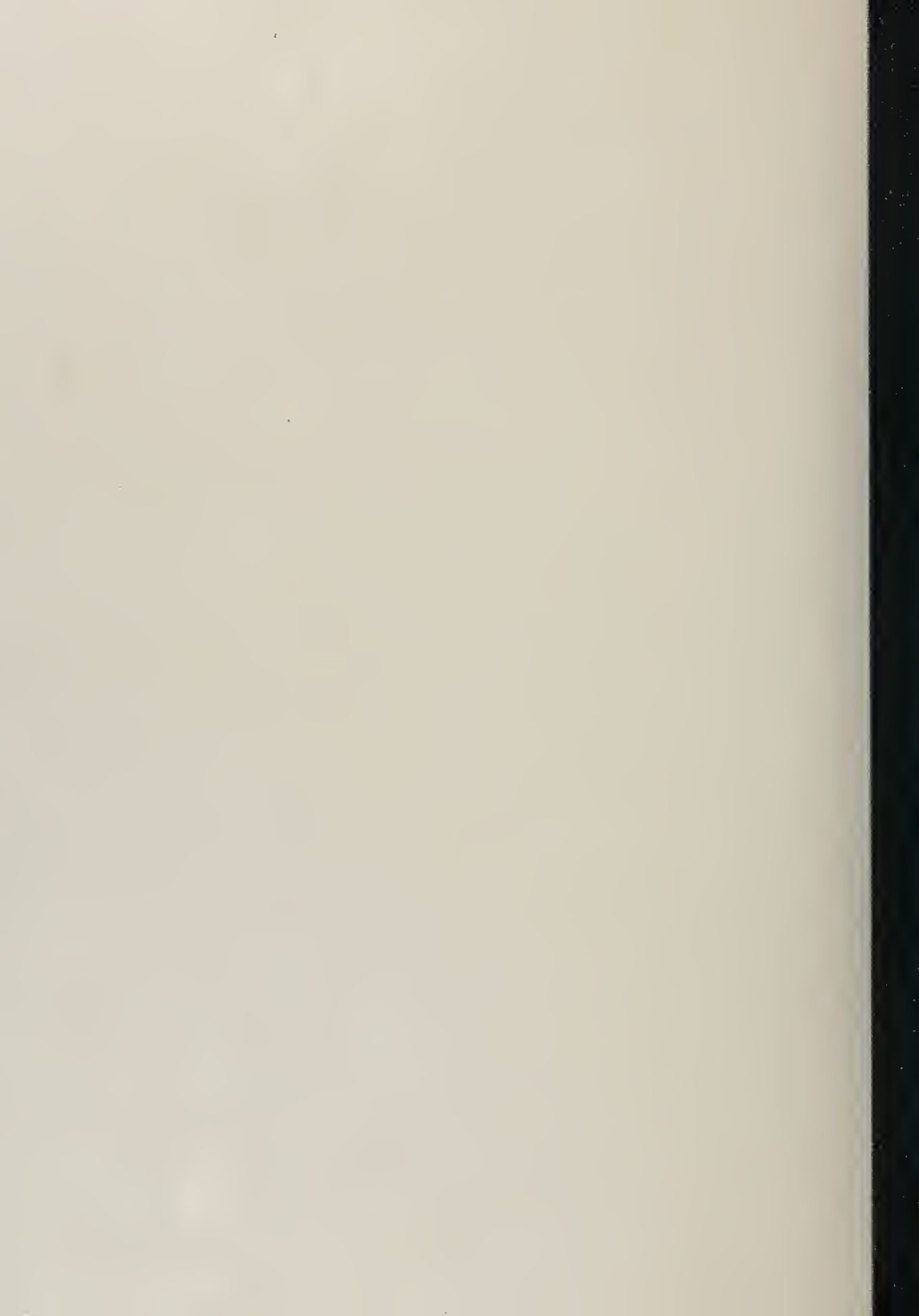
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A Report by the Human Rights Commission of San Francisco

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October, 1983



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[Vol. 3]

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INVESTIGATION INTO MINORITY AND WOMEN BUSINESS PARTICIPATION IN CITY CONTRACTING

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PREFACE

The documents: Report Volumes I and II, Findings, and Proposed Remedial Legislation are the culmination of more than nine months of efforts, involving many people . The HRC staff's tasks involved formulating, advertising, and holding public hearings; identifying, contacting, and notifying City and County departments; collecting, analyzing, and evaluating departmental data and public testimony; and preparing, writing, typing, and collating drafts to complete a final version of the Report. The final version consists of the the Comprehensive Edition, with supporting documentation, and the Abridged Edition.

This Report resulted from allegations of discriminatory treatment in the award of prime contracts by City and County departments lodged with members of the Board of Supervisors, leading to the adoption of Board Resolution 952-82 on December 13, 1982, calling upon the Mayor to request the HRC to hold public hearings to investigate the extent of minority and women business participation in City and County contracts.

The Report is a compilation of data submitted by departments and oral and written testimony presented by business and community representatives. Every effort has been made to reflect accurately the information submitted, and to ascertain accuracies whenever feasible; however, the authors of this Report cannot attest to the precise

authenticity of the data or the testimony. There may well be inaccuracies or omissions in the raw data or some double counting between the Purchasing Department and individual departments. However, staff attempted to reduce the error probability to 5% or less.

All of those who testified, submitted written materials, and offered commentary added to the store of information that formed the basis of the Reports, Findings, and Remedial Legislation. The staffs of the 56 City and County departments, divisions, and bureaus surveyed provided the data necessary to comply with the Board of Supervisors' request to "determine the extent of minority business participation." A great deal of work was required to collect and compile the requested information because, even for those departments which maintain records as to the level of MBE and WBE participation, the data was not maintained in the manner requested by the HRC, necessitating retrieval of stored files and countless hours of work.

Many people have contributed to these documents, including especially the San Francisco Black Chamber of Commerce, Asian Inc., and other community groups and individuals, including minority and women participants. The San Francisco Black Chamber of Commerce, particularly James Jefferson and Zula Jones, and Hayden Lee, of Asian Inc. were instrumental in notifying and recruiting people to testify and to submit written testimony. Without their efforts

these public hearings would not have been as successful and as representative as these were. The MBE/WBE Committee, an ad hoc subcommittee of the HRC, has been extremely helpful in reviewing drafts of the Report and providing input.

Thanks are extended to Aileen Hernandez, James Jefferson, Zula Jones, Hayden Lee, Felix Velarde-Munoz, Sam Norman, Eva Paterson, and Avonne Smith. A special expression of appreciation is conveyed to Eva J. Paterson, Esq. for her extensive legal research.

The Human Rights Commission gave this resolution priority by holding early public hearings and providing the oversight policy decisions to the Director and staff to ensure proper balance and representation, through its Administrative Committee, and holding two meetings of the full Commission, culminating in the adoption of the Comprehensive Edition, Abridged Edition, and Proposed Remedial Legislation at its regular meeting of October 13, 1983. The Commissioners participating were:

Thomas E. Ambrogi

Samuel H. Chung

Robert D. Edwards

Joe Ling Jung

Corrine Lee

Phyllis Lyon, Chairperson

John C. Morrissey

Joan Zamora Moulton

Richard A. Sevilla

Esta G. Soler

George A. Suncin

Brenda K. Wade, Vice Chairperson

Martin S. Weiner

David K. Yamakawa, Jr.

The staff of the Human Rights Commission and its Director carried the ultimate responsibility for the work involved in implementing Resolution 952-82. They gave this project a priority of their time and efforts and the completion and success of this project could not have been accomplished without them. The contribution of Renee S. Opell, a University of California undergraduate intern, is especially appreciated. Special recognition goes to Gail P. Roberts, who coordinated this project, acting as writer and editor.

CHAPTER ONE

METHODOLOGY AND PROCEDURES

The Board of Supervisors adopted Resolution No. 952-82 on December 13, 1982, "Urging the Mayor to Request the Human Rights Commission to Investigate and Hold Public Hearings with Respect to the Extent of Minority Business Participation in City Contracts and Procurements and to Propose Appropriate Remedial Legislation." This Resolution, signed by the Mayor on December 17th, was transmitted by the Clerk of Board to the Human Rights Commission January 11, 1983. Because the request made of the HRC was "promptly to investigate and hold public hearings," the HRC held three public hearings, extending the final hearing to a second date, in order to provide an opportunity to all those who wished to be heard.

The HRC staff wrote to 56 departments and/or bureaus on January 26th through February 4th seeking data on contracts awarded. All responded. The data sought was as follows:

1. The names, addresses, and ethnicity of all companies with which a department has or had a contract or a procurement, not handled solely by the City Purchaser, for the 1981 and 1982 calendar years. Also the goods or services provided by each contract or procurement;

2. What procedure: Request for Proposal, bid, or other method was used by a department for letting or awarding contracts, franchises, leases, concessions or other agreements;
3. The method of solicitation and the means of publicizing that solicitation; and,
4. The names, addresses, ethnicity, and type of business of all other companies considered but rejected.

Sixteen departments, which HRC staff anticipated awarded a significant number of contracts, were requested to designate a contact person within the department with whom the HRC staff could meet within the following week in order to obtain the requested information. The remaining departments and/or bureaus were requested to submit the information specified within two weeks of the receipt of this letter. Gail Roberts was to be contacted regarding any questions or to provide assistance.

The time period of calendar years 1981 and 1982 was selected for the following reasons: to provide an overview of two years, particularly for those departments which awarded few or no contracts in any given year, and to give a time sequence which would overlap most fiscal years. The Office of Community Development's fiscal year corresponds with the calendar year. The fiscal year for the City and County is July 1 through June 30, while for those observing

a federal fiscal year, the period is October 1st through September 30. When reporting for a calendar year, data for the fiscal year beginning in that calendar year was to be reported; therefore, FY 81-82 contracts were to be included in calendar year 1981, and FY 82-83 contracts were to be included in calendar year 1982. The rationale for this was that, by using a calendar year, departments operating on a fiscal year would report bid or solicitation information occurring during the initial months and the contracts actually awarded during the last six months of the calendar year.

While a few departments responded promptly and did not need added communication with staff, others required assistance and many, repeated reminders. Adult Probation, Electricity, Permit Appeals, the Public Defender, and the Registrar of Voters, all written on February 2nd, and responding between the 7th and 14th of February, reported on contracts. The Mayor's Office of Employment & Training, written on January 25th, had a conference with staff on February 1st, and submitted data on 211 On The Job Training subcontracts, 204 training subcontracts, and audit services. The Mayor's Office of Housing and Community Development (OCD) was equally prompt, providing the 1981 and 1982 final programs and listing the rejected proposals; however, OCD did not report a contract awarded for auditing. However, promptness of response did not necessarily convey accuracy.

The Board of Supervisors replied on February 10th to a February 2nd letter, that they awarded no contracts; however, the Board has contracts with Mares & Lazarus and with Harvey Rose and awarded a franchise to Viacom Cablevision. Only one department, Purchasing, did not compile the requested data, citing shortage of staff and the absence of data; however, the City Purchaser did cooperate in making their records available to HRC staff for their compilation and their staff available for consultation. Because several departments had included the dollar amount of contracts, staff wrote departments which had not volunteered this information, asking them to do so.

In order to expedite the process, the first of the three scheduled public hearings was scheduled for February 24th. While responses from all departments were received prior to the conclusion of the hearings on April 6th, analysis of the departmental data was not made public.

In order to determine, as requested by the Board of Supervisors, the extent of minority business participation, representatives of departments which award large numbers of contracts were invited to provide focus for the subsequent testimony of minority and women business enterprises. At the February 24th hearing, three departments: City Planning, the Clean Water Program, and the Port of San Francisco were represented respectively by Peter LaBrie, Budget Management Office, George White, Executive Assistant

Director; and Anthony Taormina, Deputy Port Director. Representing the Department of Public Works at the March 2nd hearing were Gary Seib, Office of Financial Management & Administration; Norman Karasick, City Architect; and Andy Lee, Recreation and Park Engineer. Jason Yuen, Deputy Director-Terminal Construction, and Marcele Conrad, Head Property Manager, spoke on behalf of the San Francisco International Airport. Also making presentations at the March 2nd hearing were Bob Cowan, Assistant Director, Department of Social Services, and Julian Rhine, Counsel to the Controller. Departmental presentations at the March 24th hearing were by Robert Tecco, Director of Purchasing and Services, Purchasing Department, and Robert Gamble, representing Roger Boas, the Chief Administrative Officer. At the April 6th continuation of the March 24th hearing, Arnold Baker, Contract Compliance Officer II, Public Utilities Commission, testified. Milton Edelin, Deputy Director of Planning, responded to the questions asked of and unanswered by Peter LaBrie at the February 24th hearing. James Breslin, Assistant Director of Purchasing and Services, was present and clarified the position of the Purchasing Department.

The implementation of Resolution 952-82 has been very carefully planned. Press releases were distributed to the news media on February 7th. Paid public notices appeared in the February 20th issue of the S.F. Examiner and the February 20th, February 27th, and March 20th issues of the

S.F. Progress. Information was circulated widely beginning January 24th. Fourteen minority and women business associations were written on February 1st. Beginning February 2nd, packets of information including letters of invitations and the Board Resolution, were sent to more than 750 companies and individuals, with names drawn from almost every available source.

Fifteen people representing businesses and groups within the community spoke at the February 24th meeting. They are listed in Appendix H. The community speakers on March 2nd numbered thirteen. There were six on March 24th and eight at the final session, April 6th.

It is estimated that 180-190 people were in attendance at the February 24, 1983 hearing, while approximately 75 or more were there on March 2, 1983 and 110 to 115 on March 24, 1983, and about 35 on April 6th. Because of the number of people wishing to speak, the February 24th hearing was extended for an hour and quarter, to 1:15 p.m. The March 6th hearing continued until 8:45 p.m. The March 24th hearing lasted until 12:30 p.m., while April 6th's ran until 8:15 p.m. Those persons not called upon to speak at a hearing were given first preference at the subsequent hearing. Everyone present at the last three sessions who wished was given the opportunity to speak.

Microphones were used throughout the March 2nd, March 24th, and April 6th hearings. Microphones were not used at

the beginning of the February 24th hearing because the technician who operates the sound system was not available; however, he was located and instituted the sound system for the last three hours of the hearing, beginning from 10:30 a.m.

Written testimony was solicited. The twenty who responded are indicated in Appendix J.

CHAPTER TWO

DATA COLLECTION

Excerpted Summary Statements and Issues From:

I. Public Testimony

A. Oral Public Testimony.

James D. Jefferson, President
Black Chamber of Commerce

Mr. Jefferson supported establishment of a City MBE policy with a strong monitoring component. He has attempted unsuccessfully to be placed on a mailing list. He had no knowledge of a Black (MBE) prime contractor awarded a contract through the City Purchaser. He reported an incident of Teleport Oil (an MBE) being the "low bidder", even though another company, Chevron U.S.A., received the Muni bid contract.

Virgilia Talao
Ocampo-Talao Construction Materials

Mr. Talao submitted bids to prime contractors; however, he contended that subcontractors are used only to get the award for the prime contractors, that they are dropped afterward, and subcontractors often lose their committed portion of the job. He supported affirmative action goals, but feels these will need enforcement. He contended that subcontractors' money decreases as time evolves.

George Liu
United Asian Contractors

Mr. Liu commented that the City should increase minority vendors' bonding capacity because MBEs can't afford to go "low" and be competitive. He has submitted bids and proposals for contracts and thinks that a liaison is needed between MBEs and the Purchasing Department. He feels that "lowest bid", as a consideration of qualification for an award, hurts the MBEs.

Lewis N. Nelson
Nat'l. Organization. of Minority Architects

Mr. Nelson contended that subcontractors are used only to get a prime contract by contractors and are then dropped. He believed there is an absence of a consistent policy between contractors and subcontractors. He stated that a City and County policy with strong monitoring is needed and that affirmative action goals need to be enforced. He strongly emphasized that "a standard of review for the selection process be circulated among professionals."

Fred Jordan
Jordan/Avent
Engineering & Planning Firm

Mr. Jordan has submitted bid proposals for contracts. However, he has never received a prime contract from the City of San Francisco. He suggested that local

preference and an MBE vendor policy by the City and County with strong monitoring is needed. Mr. Jordan stated that the Human Rights Commission should reconsider the 12½% rule for small minority businesses which, he believes, perpetuates smallness.

Wilson Chang
Asian, Inc.
Business Development

Mr. Chang stated that a uniform policy is needed and that agencies need to be held accountable for MBE policy. The absence of a consistent policy creates problems. He also said that the City and County needs an MBE policy with strong monitoring and local preference, and that a liaison is needed between MBEs and City departments for information accessibility.

Wilbur Chan
Asian/American Architects & Engineers

Mr. Chan advocated goals for MBEs. Because small firms cannot compete on large contracts, the size definition of a contract should be lowered. Better communication between prime contractors and subcontractors is essential. He also wanted the City to promptly make the necessary payments to MBE vendors. He supported an MBE policy by the City and County with strong monitoring because he feels the absence of a consistent policy creates problems. He wanted a

liaison between MBEs and City departments for information accessibility.

Frankie Jacobs Gillette
Nat'l. Assoc. of Negro Business
& Professional Women's Club

Ms. Jacobs Gillette supported new legislation for MBE vendors which will include aggressive advertising and strict contract compliance. She supported a new City & County MBE policy with strong monitoring, affirmative action goals and a liaison between MBEs and City departments for information accessibility.

Frank Clark
Clark & Yates Associates

Mr. Clark has submitted bids for contracts in the past. He supports a City & County MBE policy with strong monitoring. He stated that major firms have excluded and limited the use of Black firms, and pitted Black firms against other minority firms. Prime contractors should use Black firms and they should not be given contract awards if affirmative action programs are not followed. Black firms should be involved on a meaningful basis and have decision-making responsibilities.

Yvonne Ladson
Ladson Associates
Consultant -----

Ms. Ladson has submitted bids for contracts and suggested that more Blacks are needed when decisions on contract awards are made. She is desirous of direct assistance as a bidder. She supported an MBE policy by the City and County with strong monitoring and noted a need for a liaison between MBEs and City departments for information accessibility. She feels that race discrimination is practiced and that the "old boy" network is a hindrance.

Samuel Norman
Black Chamber of Commerce -----

Mr. Norman stated that subcontractors do a job with a prime contractor below cost because they are often made by the prime contractors to assume back charges. He contended that subcontractors are used by prime contractors to get the contract and then dropped once the award is made. He supported a City & County MBE policy with strong monitoring and urged that affirmative action goals be redone. He believes that the "old boy" network should be abolished because it is a hindrance.

Jesse Smith
Construction Control Services Corp.

Mr. Smith has submitted a bid successfully for a contract . However, the Clean Water contract he was awarded for \$140,000 had work that already had been completed and approved and one year later he received only \$10,000 of the original award. He contended that race discrimination is practiced and that prime contractors use subcontractors only to get the prime contract and then they are dropped after the award is made. He wanted to see a City & County MBE policy with strong monitoring.

Gerald Johnson
Johnson Forest Products

Mr. Johnson supported a 40% set-aside program and recommended the utilization of a liaison between MBEs and City departments for information accessibility. He wanted a City & County MBE policy with strong monitoring. He stated that there is a lack of equal opportunity for MBEs in San Francisco, and MBEs can cut costs for City Purchasing. Yet, he feels the City Purchasing has not taken advantage of their services.

Charles Kareen
Tutankhamun Graphics

Mr. Kareen submitted a bid successfully for a contract.

However, he feels the concept of lowest bid hurts the MBEs. He stated that small businesses (MBEs) can't get the dollar amount from the banks needed for bonding and they cannot afford to bid competitively.

Katherine Fitz
Fitz Consultants-Engineering

Ms. Fitz submitted a bid successfully. However, she was dropped as a subcontractor without working on the project. She contended that subcontractors are used only to get contracts and are then dropped by the prime contractor. She recommended a WBE/MBE list to be used by the City & County and that the paperwork be shortened.

Timothy Marshall
Pacific Economic Resources League

Mr. Marshall contended that race discrimination is practiced in San Francisco, and that subcontractors are used only to allow prime contractors to get the award and they are dropped. He suggested that the City of Oakland remedies be used. He stated that San Francisco is not in compliance with MBE goals or utilizing affirmative action.

Al Cain
Maxie Transportation

Mr. Cain recommended that local businesses receive preference and suggested that the City and County create an MBE policy with strong monitoring.

Stan Hall
US Black Chamber of Commerce

Mr. Hall supported local preference (MBEs) and suggested that a process must be developed to aid in the achievement of goals. He supported a City MBE policy with strong monitoring, and the creation of a liaison between MBEs and departments of the City & County for improved information accessibility. He felt that new companies should guarantee work to local subcontractors (MBEs). He also stated that departments do not make true good faith efforts to contact MBEs and notify them of an upcoming contract.

Franco Consolacion
Filipino Accountants Assoc.

Mr. Consolacion successfully submitted a bid for a contract, but later the bid was rejected because his friend had ties with Mayor's Office of Employment & Training; therefore, no Filipino Certified Public Accountant ever has gotten a contract from San Francisco. He contended that subcontractors are used only to allow prime contractors to receive the award then they are dropped. He supported a City MBE policy with strong monitoring, and would like to see a liaison between MBEs and City departments for information accessibility.

Andre Pettigrew
Development Associates - Consultant

Mr. Pettigrew stated that the absence of a consistent City policy prevents MBEs from entering the system of vendors. He supported a City MBE policy with strong monitoring and contended that the "old boy network" is a hindrance to MBEs.

Miles Stevens
Stevens & Associates-Architects

Mr. Stevens supported affirmative action goals and policies but feels that San Francisco's MBE goals and policies on affirmative action need to be redone. An MBE policy is needed by City & County of San Francisco, with strong monitoring. The Airport, Redevelopment Agency, and the Housing Authority, they all have good affirmative action policies, Mr. Stevens stated.

Alfred Williamson
William & Associates -Advertising

Mr. Williamson submitted a bid for a contract. He suggested that the City of San Francisco create an MBE policy with strong monitoring. He also stated that race discrimination is a practice in San Francisco with MBEs and that the Black (MBE) Community needs assistance.

Harold Brooks
Business Development, Inc.

Mr. Brooks contended that racial discrimination is a key factor and that the language of a contract such as "good faith" has been used at the discretion of the City Purchaser to discriminate. He contended that MBEs should clearly identify their services and state the exact dollar amount they need to do the job. He also stated there is a need for MBEs to learn the language of the contract's specifications in order to adequately bid.

Idaree Westbrook
Dyna-Kor Micrographics

Ms. Westbrook submitted a bid for a contract. She supported a City MBE policy with strong monitoring. She felt that there is a need to establish a liaison between MBEs and City departments for information accessibility. Her MBE/WBE Black firm is the only one in Northern California, but is still unable to get City contracts for services. She will support affirmative action goals if they are created.

Tyrone Cosey
Dyna-Kor Micrographics

Mr. Cosey supported a City MBE vendors policy with strong monitoring.

Terry Francois
Roach Pruef

Mr. Francois submitted a bid for a contract. He supported a City MBE policy with strong monitoring. He agreed with using affirmative action goals but stated that City departments should submit affirmative action goals when City budgets are approved. He stated that race discrimination is practiced in San Francisco against MBE vendors.

Aileen Hernandez
Hernandez & Assoc. - Consulting

Ms. Hernandez submitted unsuccessfully bids for several contracts. She supported local preference and creation of a City MBE policy with strong monitoring. She contended that racial discrimination is practiced in San Francisco against MBE/WBEs.

Pollo Smith
Abec Medical Company

Mr. Smith advocated local preference in the selection of MBE vendors. He suggested the creation of a City MBE policy with strong monitoring. He supported development of a formal MBE program and a list of MBE vendors to be used by the Purchasing Department. He supported new legislation and strong enforcement of affirmative action goals for MBEs. He advocated changes in the infrastructure of the procurement policies of San Francisco.

Louis Jeanpierre
Jeanpierre & Company - CPA

Mr. Jeanpierre submitted bids for contracts and was awarded contracts which were mostly under \$20,000. He advocates a City MBE policy with strong monitoring. He stated that race discrimination is practiced in San Francisco.

Naomi Gray
Naomi Gray & Associates -
Management Consultants

Ms. Gray submitted a proposal bid for a contract. She supported the City's having an MBE policy with strong monitoring and affirmative action goals which will be enforced. She advocated having a liaison between MBEs and City departments for information accessibility. She has experienced problems in trying to do business with the City Purchaser. When she attempted to be placed on the Purchasing bidder list, she got the "run around". She advocated a strict MBE/WBE program from the Mayor's Office.

Drucilla Stender Ramey
Commission on the Status of Women

Ms. Ramey supplied the Commissioners with various statistical analyses regarding WBE participation in federal and state contracts as well as the City and County of San Francisco. Of the \$405,123,000 that went to the City in 1980, only \$1,552,000, or three-tenths of 1%, went to WBEs,

although WBEs constitute between 10 and 15 percent of all businesses in San Francisco. She feels that the "old boy" system is the major obstacle faced by MBEs and WBEs. She said that lack of capital, lack of familiarity and the general distrust of women are also major factors. Ms. Ramey also suggested that San Francisco look to Oakland as a model for getting more MBE/WBE participation. She also stated that if a minority woman owns a business she should be classified either as an MBE or a WBE, not both.

Eva Jefferson Paterson
SF Lawyers Committee -----

Ms. Paterson cited legal precedence for MBE set-asides. For a set-aside program to be legal, it must contain: a narrowly-focused program with specific set-aside percentages; a definition of MBE and who is included; provisions for contract compliance with an agency as monitor, only firms actually discriminated against; and an obligation to recruit MBEs and WBEs - See Appendix F.

Benny Wright
Building Contractor

Mr. Wright successfully submitted a bid for a contract. He supported affirmative action goals which can be strictly enforced. He feels MBEs need help in getting bonds and financial assistance.

Harold Brooks
Bayview Towing Association

Mr. Brooks submitted a proposal bid a for contract. He supports a City MBE program with strong monitoring. He advocated a liaison between MBEs and City departments for information accessibility. He advocated a new bonding policy and feels an MBE definition is needed. Identification and certification of bona fide MBEs must be stricter. He supported the need for an MBE assistance revolving fund.

Henry Der
Chinese for Affirmative Action

Mr. Der advocated local preference. He supported a City MBE policy with strong emphasis on monitoring. He was desirous of having a liaison between MBEs and City departments for information and education accessibility. He stated that the Chief Administrative Officer should administer the program because it is a more neutral office. The HRC should monitor contract compliance, and percentage goals should be based on the number of MBEs in S.F. He recommended a random sampling of Purchasing Department contracts.

Celso Ortiz
Attorney

Mr. Ortiz submitted a bid for a contract. He supported the City's having an MBE policy with strong monitoring and

wants affirmative action which is enforced. He advocated MBEs getting a larger share of the City's contracts.

Ernie Lowe
Ernie Lowe & Sons Construction

Mr. Lowe bid for and was awarded a City contract. He contended that subcontractors are used by prime contractors to obtain the award and are then dropped. He stated that MBE subcontractors currently are used by only 50 prime contractors, when they could be prime contractors. He supported local preference in City selection of MBE vendors.

Jim Hangabook
Golden Gate Painting & Decorating

Mr. Hangabook successfully submitted a proposal for a City contract. He contended that subcontractors are used by prime contractors and once the award is made, they are dropped. He contended that the City lacks a consistent policy on MBEs and prime contractors. He advocated an affirmative action program which can be enforced. Since he feels race discrimination is being practiced by the City Purchaser, he supports set-aside goals for MBE vendors.

Aristotle Walters, Jr.
A.W.J. Transportation Consultants

Mr. Walters supported having an MBE City policy with strong monitoring. He suggested having a liaison between MBEs and City departments for information and educational accessibility. He contended that race discrimination is practiced by the City Purchaser and he feels the "old boy network" is a hindrance.

Lon Hanke
Associated General Contractors

Mr. Hanke offered the assistance of his organization to assist and provide training to MBE vendors. He supported MBE/WBE set-asides for smaller contracts consistent with existing goals. He doesn't want an increase in the construction MBE requirements. His emphasis was primarily on his involvement with construction contracts. He supported a liaison between City departments and MBEs for informational and educational accessibility and instruction on how to prepare and submit a bid for contractual work. He discussed San Francisco's history of racial discrimination in awarding work to MBEs . He discussed set-asides based on availability of population of local vendors and using 25% or less as a set figure.

Diane Alexander
Lattimore Consulting Group

Ms. Alexander supported an MBE vendor City policy with strong monitoring. She stated that the "lowest bid" is a hindrance to MBEs. She advocated a consistent City policy for MBEs with an affirmative action goal which can be enforced. She advocated a liaison between City departments and MBEs on contract bids to ensure specification of contract education and information, to avoid jeopardizing accessibility to meeting Purchasing Department requirements. She suggested that an MBE vendor list be established by the Purchasing Department and the HRC.

Al Williams
Pacific Management Systems

Mr. Williams supported affirmative action goals which can be enforced. He wants the City to establish MBE goals. He supported City departments and wants their staff to evaluate affirmative action performance. He stated that there is a need for an MBE policy with strong monitoring. He supported having a liaison between MBEs and City departments for information and accessibility. He wants to see MBEs educated on bidding procedures.

B Written Public Testimony

Wilbur Chinn, Asian American Architects and Engineers reported that MBEs lack access to vital information concerning RFP's and key personnel in City agencies. Many projects are too large for disadvantaged firms and need to be broken down into smaller components. Mr. Chinn complained about the inconsistency of the MBE policy implementation City-wide. MBEs should be included at the beginning of the proposal process rather than added at the end. Prompt payments are both crucial and necessary.

Price M. Cobbs, M.D., Pacific Management Systems stated that established goals for MBE participation are needed. All staff involved in contracting decisions should encourage training seminars to make them aware of attitudes which may result in the denial of contracts to MBEs. The overall responsibility for increasing MBE participation should be vested in the Mayor's Office, the Chief Administrative Officer, and other officials with authority over several City departments. The Board of Supervisors should adopt legislation requiring private developers to set MBE goals.

Constance C. Dennis, Minority Contractors Association of N. California related that the Human Rights Commission, the Public Utilities Commission, and the Redevelopment

Agency were agencies responsive to the dilemmas of the MBE. Ms. Dennis supports MBE legislation.

Dorothy Erikson, D Enterprises stated that contracts should be divided so that WBE/MBEs can bid without the assistance of majority contractors as primes. WBE/MBEs must be allowed to prove their capabilities by being able to bid. Technical assistance must be provided to WBE/MBEs to help them bid effectively.

Joseph B. Hevia, J.B. Hevia & Co. expressed concern regarding the bidding process for the Muni advertising contract. Mr. Hevia complained that the request for bid effectively prohibited minority participation.

Bobbie Sue Hood, Hood Miller Associates stated that her company had never received a RFP from a City or County department. WBE/MBEs must be allowed to prove their capabilities. A committee made up of minorities and women should select contractors based on their ability to perform and not on their tradition of doing a good job.

Kenneth C. Jones, Homitz, Allen and Associates stated that MBEs were not given the chance to bid or even made aware of a possible contract award from the San Francisco Clean Water Program. The SFCWP ignored an opportunity for

MBE participation on a \$30,000 contract. This award would have been more significant for a small MBE firm, than to the large majority firm which was granted it.

Thomas F. Lee, Bay Architects Associates related that bureaucratic attitudes towards new MBEs are usually prejudiced. New zoning laws restrict new businesses (especially lower income entrepreneurs) from flourishing. Set-asides are needed to help WBE/MBEs get started. Procedures used to choose consultants must be changed. Bureaucrats believe minority firms are too small to be considered for most jobs.

Julian D. Munoz, Group 4/Architecture, Research and Planning, Inc. supported an MBE program to be enforced by the HRC. MBEs need to play a much larger role in the award process as subcontractors. An across-the-board level of participation is critically needed.

Andre N. Pettigrew, Development Associates, Inc. submitted information pertaining to the City of Oakland's Purchasing Department's Affirmative Action Plan, and newspaper articles on the City of Miami's Affirmative Action Plan, as requested by the Human Rights Commissioners.

John A. Ramirez, Certified Public Accountant stated that he bid for an audit contract which was granted to an international public accountancy firm. He has a legal suit against the Department of Housing and Urban Development, the City Demonstration Agency, and the successful contractee. The City Attorney has prevented minorities from obtaining City contracts, Mr. Ramirez charged. He strongly supported remedial legislation.

William S. Robinson, Towill, Inc. stated that the SFCWP does not favor MBEs. He urged establishing a local preference for contractors.

Joan Sandberg, Kathry Mathewson Associates urged policies that aim for quality, not charity, and the establishment of policies that would break the "old-boy network". A comprehensive, accessible list of all available contracts is urgently needed.

Nadine Sponamore, Sponamore Associates supported a strong WBE/MBE program. She suggested a minimum set-aside program of 30% for WBE/MBEs. WBE/MBEs cannot compete effectively with larger, established, non-minority enterprises.

Richard Tom, The Copy Factory stated that his firm has experienced little success in getting work from City or County departments. Mr. Tom argued that the City Purchaser needs to have a good job mix available to ensure utilization of good vendors rather than sole source suppliers. The City and County should maintain an active bidders' list and contact prospective WBE/MBEs vendors when jobs come up for bid. A compliance and monitoring system is needed which has expressed goals in specific areas.

F. P. Torrey, Torrey & Torrey, Inc. stated that a standard consultant selection procedure must be established. Skills must be demonstrated in order to be awarded a contract. WBE/MBE goals must be included as a first priority, using a WBE/MBE firm as a prime contractor. Thorough review and monitoring of City and County departments must be done on a regular basis to ensure compliance.

Harold T. Yee, President, Asian, Inc. endorsed MBE legislation to help further MBE business participation. Asians represent the largest percentage of MBE firms in San Francisco, yet they do not receive a proportionate share of MBE awards, he wrote. Parity for minority populations in City and County contracts requires a maximum goal of 48%. Mr. Yee urged that the City and County stimulate, encourage, and assist

in the development, growth, and successful entry of MBEs into the mainstream of competition in the economy. The economic development of minority communities is needed. Mr. Yee argued for sub goals for minority groups to ensure that all minority groups will have parity within their industry group. He strongly urged local preference.

Eva Jefferson Paterson of the Lawyer's Committee for Urban Affairs submitted a legal opinion concerning the establishment of an MBE/WBE set-aside program. (See Appendix F.)

II. Departmental Responses

A. Data Submitted.

ADULT PROBATION

The Adult Probation Department provides continuing supervision of adult individuals over 18 years of age convicted of crimes and ordered to be on probation, by either a Municipal or Superior Court of San Francisco, for a specific period of time.

The Adult Probation Department reported that it let no contracts in either 1981 or 1982 calendar years.

COMMISSION ON AGING

The Commission on Aging oversees programs for the elderly in San Francisco.

All contracts were awarded to non-profit organizations in 1981 and all but four in 1982. The method of contract award was by Request For Proposal.

Of the 55 non-profit agencies funded by the Commission in 1981, twenty-two had at least a 50% minority composition of the Board of Directors and staff, with two agencies meeting those criteria for women. The total Commission budget was \$5,352,867.

In 1982, forty-nine agencies were awarded contracts, twenty-three of which were minority and two were women controlled. The dollar amount awarded for 1982 was \$4,612,072.

All agencies, those which met and those which did not meet the 50% composition of Board members and/or staff, had a service population specified in their contracts with the Commission on Aging. This service population may be designated as a minority community, or it may be of assistance to these communities, e.g., nutrition programs.

Four contracts totaling \$ 40,253 in 1982 were awarded to for-profit companies.

ART COMMISSION

The Art Commission contracts with artists and performers to develop works of art to be exhibited throughout San Francisco.

Contracts are awarded in two categories: "special projects," i.e., mural painting, models of works of art, performers and pop concerts; and "other contracts" which includes personal service contracts.

Methods of making contract awards are by advertising and staff selection of artists and performers.

All contracts except one awarded by the Art Commission during 1981-1982 were to for-profit companies or individuals. The exception was the San Francisco Symphony.

The total budget for 1981 was \$706,979; 27 contracts were awarded. Of these, 5 were awarded to MBEs for \$181,300, or 26%, and 9 to WBEs for \$60,429, or 9%. In 1982, 34 contracts were awarded for \$1,034,530. Of these, 12 were to MBEs for \$373,600, or 37%, and 11 to MBEs for \$47,910, or 5%.

ASIAN ART MUSEUM

The Asian Art Museum is the only museum in the United States devoted entirely to the arts of Asia. The museum has its own staff and commission.

The Asian Art Museum did not award any contracts during calendar year 1981 and 1982.

ASSESSOR'S OFFICE

The Assessors Office assesses real and personal property in the City and County to determine the ad valorem tax base for all of the taxing jurisdiction in the City and County.

The only contracts were with the State Board of Equalization and Bay Area Assessors' offices for cooperative audits of business accounts for personal property taxes.

BOARD OF SUPERVISORS

The Board of Supervisors, consisting of eleven members, is the legislative body of the City and County of San Francisco.

Two contracts were awarded by the Board in each of FY 81-82 and 82-83, for \$749,128 and \$806,799, respectively. Neither contract was to an MBE or a WBE. There was one franchise, awarded to Viacom Cablevision.

CHIEF ADMINISTRATIVE OFFICER

The Chief Administrative Officer's office reported MBE/WBE contract participation in 4 bureaus:

- (1) Solid Waste Program;
- (2) Publicity and Advertising;
- (3) Risk Management; and
- (4) Convention Facilities.

The "Risk Management" and the "Convention Facilities" reported on a calendar-year basis, while Solid Water and Publicity and Advertising reported on a fiscal-year basis.

Solid Waste Program:

The Solid Waste Program used 7 contractors; 1 was an MBE and 2 were both MBE and WBE. The dollar amount was \$29,291, or 37.47%, for MBEs and \$16,91,6 or 21.64%, for MBEs. The total amount was \$78,177. The award process was Request For Proposal.

<u>Contractor</u>	<u>Ethnic I.D.</u>	<u>Status</u>	<u>Profession</u>	<u>Amount</u>
CSI Resource Systems		Prime Contractor	Engineer	\$27,441
Torrey & Torrey	MBE	Prime	Environ- mentalist	\$12,375
Cajun Graphics, Inc.	MBE/WBE	Prime	Graphics	\$ 5,000
Teresa Houghes Assoc.	MBE/WBE	Prime	Environ- mentalist	\$11,916
Bissell & Karn		Prime	Tech. Consultant	\$13,808
Eric Hasseltine		Prime	Tech. Consultant	\$ 4,000
Clipton & Company		Prime	Insurance Carrier	<u>\$ 3,637</u>
Total Contract dollars:				\$78,177

Publicity and Advertising:

The Office of the Chief Administrative Officer is responsible for the administration of the hotel taxes

collected within the City and County of San Francisco. This money is used to fund various social, cultural, and organizational functions.

During the 1981-82 fiscal year, \$3,600,000 was collected from hotel taxes in San Francisco, and 90 contracts were let by the CAO's Office. Out of this total, 26 contracts were let to MBEs for a total of \$294,815, or 8.2%. There was no WBE participation.

Risk Management:

Insurance brokerage and quotation during the 1981 and 1982 calendar years was the only area in which the CAO's Office was involved in "Risk Management." During 1981 and 1982, only two City insurance quotations were put out to the local broker community for competitive quotes. One insurance quotation was an annual premium of \$22,542 for City fire insurance, let in 1981. Another insurance quotation was an annual premium of \$169,956 for Airport/Public Utilities Commission property let in 1982. Neither was an MBE or WBE.

It is the City's policy that insurance premiums are let every three years. The criteria used for selecting insurance brokers to be solicited is: once who currently writes some City insurance, or who responded to a bid within the last year, or is new and has asked to be added to the insurance list within the last year. In the last four years, no minority broker has responded to a bid nor has a new minority broker asked to be added to the City's

insurance bidders' list. No minority brokers are on the existing list.

Convention Facilities:

"Convention Facilities" refers to the construction of the George R. Moscone Convention facility. During 1981, there were 14 ongoing prime contracts, totaling \$15,000,000. Of the 14 prime contracts, 4 were awarded to MBE prime contractors, which totaled \$3,145,847 and represented 21%. There were 9 subcontracts awarded, totaling \$2,211,026. Three of the 9 subcontracts were awarded to MBE subcontractors, totaling \$557,702, which represented 22.22%. There were no WBE prime nor MBE or WBE subcontractors on this job.

During the 1982 year, there were seven contracts awarded for the operation of the Convention Facility. These are separate from construction funds. These contracts totaled \$2,000,000. One contract was awarded to an MBE in the amount of \$12,500. This MBE contract represented .62% None was awarded to WBEs.

All were awarded by the Bid Process and awarded to for-profit companies.

CITY ATTORNEY

The City Attorney's Office advises on legal matters and represents, when required, all City departments, boards, and commissions.

The City Attorney's Office let 13 professional services contracts in 1981 for \$1,627,300, and 20 for \$1,716,200 in 1982. There were no contracts to WBEs in either year and none to MBEs in 1981. Of the 9 new contracts totaling \$342,500 let in 1982, 2 were to an MBE engineering firm, Kuei-Wu Tsai, for a total of \$35,000, or 10.22% of the 1982 dollar amount for new contracts. Eleven contracts, totaling \$1,373,700, were continuations of 1981 contracts.

The contracts let were in four areas:

<u>Area</u>	<u>Firms</u>	<u>Contracts</u>	<u>Amount 1981</u>	<u>Amount 1982</u>
Attorneys	2	7	\$419,000	\$429,000
CPAs	2	9	677,300	505,700
Engineers	8	16	531,000	756,500
Appraisers	1	1	0	25,000

The specific contracts were as follows:

<u>Contractor</u>	<u>Year</u>	<u>No.</u>	<u>Amount</u>	<u>Total</u>
Howard, Rice, Nemerovski, Canady & Falk (Attorneys)	1981	3	\$419,000	
	1982	3	\$419,000	\$838,000

<u>Contractor</u>	<u>Year</u>	<u>No.</u>	<u>Amount</u>	<u>Total</u>
Touche Ross & Co. (CPAs)	1981	2	\$162,500	
	1982	2	\$162,500	\$352,000
Coopers & Lybrand (CPAs)	1981	3	\$514,800	
	1982	2	\$343,200	\$858,000
Brown & Caldwell (Engineers)	1981	1	\$135,000	
	1982	1	\$135,000	\$270,000
Scientific Services (Engineers)	1981	0	\$ 0	
	1982	2	\$ 77,500	\$ 77,500
Manatt, Phelps, Rothenberg & Tunney (Attorneys)	1981	0	\$ 0	
	1982	1	\$ 10,000	\$ 10,000
J. A. Boyd & Assoc. (Engineers)	1981	3	\$246,000	
	1982	2	\$164,000	\$410,000
Kuei-Wu Tsai (Engineers)	1981	0	\$ 0	
	1982	2	\$ 35,000	\$ 35,000
H. J. Degenkolb, Assoc. (Engineers)	1981	0	\$ 0	
	1982	1	\$ 20,000	\$ 20,000
Michael O'Connor & Assoc. (Engineers)	1981	0	\$ 0	
	1982	1	\$150,000	\$150,000
Floyd Clevenger & Assoc. (Appraisers)	1981	0	\$ 0	
	1982	1	\$ 25,000	\$ 25,000
Barton Aschman & Assoc. (Engineers)	1981	0	\$ 0	
	1982	1	\$ 25,000	\$ 25,000
Black & Veatch (Engineers)	1981	1	\$150,000	
	1982	1	\$150,000	\$300,000

CITY PLANNING

The Department of City Planning develops, maintains, and regularly reviews the Master Plan. It sets development policy and implements and ensures execution of the Master

Plan. It annually reviews the capital improvement plans of all City departments and reviews all projects to determine the environmental impact on the community.

In calendar year 1981, the Department of City Planning contracted with 4 consultants for a total of \$40,000. Two of these, or 50%, were WBEs who were awarded contracts totaling \$4,500 or 12% of the total dollar amount. The WBEs were \$3,000 to Patrice Fambrini and \$1,500 to Recht Hausrath & Associates. The other two contracts were \$5,500 to Martin Geller, and \$30,000 to Skidmore, Owings & Merrill.

In calendar year 1982, three for-profit and one non-profit consultants were awarded a total of \$82,772. Of these, two were WBEs; Selina Bendix for \$50,170 and Recht Hausrath & Associates for \$10,500. The total of \$60,670 represented 74% of the dollar amount awarded.

There were no MBEs.

CIVIL SERVICE COMMISSION

The Civil Service Commission functions as the personnel agency and the appellate body for the City and County.

The Civil Service Commission reported that it awarded seven contracts during 1981 and 1982 calendar years to obtain technical assistance in the following areas: salary surveys, classification surveys, and examination

preparation. These seven contracts were awarded to the firms listed below for a total dollar amount of \$272,269. The award procedure was Request for Proposal (RFP) in all cases except one, Bay Area Salary Survey Committee (BASSC). The award procedure for the BASSC contract was through a non-competitive direct negotiation process. Only one contract, BASSC, (composed of a consortium of thirty government agencies) was awarded to a non-profit agency. The other six contracts were awarded to for-profit companies. There were no MBE or WBE contracts awarded by the Civil Service Commission the during 1981 and 1982 calendar years.

CSC Contracts awarded for 1981 and 1982

<u>Contract</u>	<u>Amt.</u>	<u>Purpose</u>	<u>Award Procedure</u>	<u>Sex and Ethnicity</u>
BASSC	\$13,000	Salary Survey	Non-competitive contract	Gov't. Agency
Ralph Anderson & Assoc.	\$103,000	Classification Survey	RFP	Male White
Management & Personnel Systems, Inc.	\$59,475	Examination Preparation	RFP	Male White
Jim Kewman	\$12,000	Examination Preparation	RFP	Male White
Psychological Services, Inc.	\$42,794	Examination Preparation	RFP	Male White
Merit Employment Assessment Service, Inc.	\$30,000	Examination Preparation	RFP	Male White
Management & Resources Consulting Associates	\$12,000	Examination Preparation	RFP	Male White

SAN FRANCISCO CLEANWATER PROGRAM

The San Francisco Cleanwater Program (formerly called "Wastewater" Program) was established in 1974 for the purpose of carrying out a construction program to update San Francisco's sewer system and to meet the new sewage treatment standards under the Federal Water Control Act of 1972. The cost of the program was originally estimated at \$2.5 billion -- later changed to \$1.5 billion -- of which more than 80% was to come from Federal and State sources, the balance to be assumed by the City. The first construction contract was awarded in 1976, and actual construction began in 1977. The anticipated completion date for full operation of the program is 1986.

The Cleanwater Program is managed as a separate unit under the Department of Public Works. In recent years, it has been ranked as the largest awarding agency in the City in terms of the dollar volume of contracts awarded.

Contracts awarded by the Cleanwater Program are for engineering design and related services and construction purposes. Except for "emergency" contracts in which an award can be made by negotiation, both design and construction contracts are awarded through the competitive bidding process. The process begins with the announcement of Request For Proposal or notice to receive bids advertisement in one "official newspaper" and a construction

trade paper, and the posting of notices at City Hall and announcement through the DPW's own digest.

In 1981, the Cleanwater Program awarded 22 design contracts totaling \$17,445,205, and 4 construction contracts worth \$206,697,528, making a combined total of \$224,142,733. For construction contracts, 2 MBEs were awarded prime contracts (one a wholly-owned minority firm and another a minority/majority joint venture) totaling \$7,233,935 or 3.5% of the total dollar amount for construction. For construction subcontracts, 22 MBEs were awarded a total of \$32,200,803., one of which was awarded over \$21 million as a subcontractor. No MBEs or WBEs received an architects and engineers (A/E) prime contract. Eight A/E subcontracts totaling \$2,509,485 were awarded to MBEs.

In 1982, the Cleanwater Program contract awards totaled \$6,432,942. This included \$5,076,615 for 22 A/E contracts and \$1,356,327 for four (4) construction contracts. Of the total A/E contracts, two (2) were awarded prime consultant contracts totaling \$1,091,658, or 21.50% of the total. Five A/E subcontracts were awarded to MBEs totaling \$1,281,989. In construction, six subcontracts totaling \$205,458 were awarded to MBEs. No prime contracts were awarded in construction to MBEs or WBEs in 1982.

In 1981 and 1982, a total of \$770,000 was awarded to 12 WBE subconsultant contractors in construction. There were no WBE design subconsultant awards.

COMMUNITY COLLEGE DISTRICT

The San Francisco Community College District includes the City College of San Francisco and the adult education Community College Centers. The District is operated by an independently-elected seven-member Board of Governors.

There were 146 contracts to for-profit companies awarded for the years 1981-1983. Contracts were awarded for the purpose of: auditing, facilitation, interpreters, collective bargaining, insurances, data processing, and equipment. For the calendar years of 1981-1983, the Community College District awarded 146 contracts for approximately \$3,500,000. Twenty-seven were awarded to MBES for a total dollar amount of \$125,788, or 3.59%, and 24 were awarded to WBES, with a dollar amount of \$23,388, or .67%. 139 contracts were awarded to non-profit organizations.

CONTROLLER'S OFFICE

The Controller's Office handles and maintains the budgets and contracts for all City departments.

The total number of contracts awarded by the Controller's Office for calendar years 1981 and 1982 was 114. The dollar amount for the year of 1981 was \$8,469,630, of which \$18,000, or .21% was awarded to one WBE. There was no MBE participation. The dollar amount for contracts awarded during the calendar year of 1982 was \$11,751,401, of

which \$101,495 or .86% was awarded to one WBE. No MBE participation was reported.

DISTRICT ATTORNEY'S OFFICE

The District Attorney is the chief law officer and public prosecutor of the County of San Francisco. His office prosecutes criminal cases occurring in the County, and, additionally, confers on legislation, conducts Grand Jury inquiries, advises law enforcement officers, prepares warrants, presents mental health commitment petitions, provides consumer protections, and lends family support.

The District Attorney's Office uses travel agents and hotels and motels, selected on a random basis from the San Francisco Telephone Directory's yellow pages to make arrangements for witnesses making court appearances. From July 1, 1982 to December 1, 1982, this office used five travel agencies and 11 hotels/motels.

ECONOMIC DEVELOPMENT

The Office of Economic Development is part of the Mayor's Economic Development Council whose function is to create and retain economic development, help small businesses obtain low interest rates, solicit funds from Urban Development Action Grant, provide technical assistance to small businesses, and retain jobs for the City.

During Fiscal Year 1981-1982, eleven staff were employed through professional services contracts based on a competitive personnel procedure. Of these, three were White males, five White females, and three minority females. Three contracts were awarded to companies: one by the Controller's Office to a Black CPA and two to White single source suppliers.

The total amount of contracts awarded was 14, for a total of \$302,000. Eight professional service contracts went to WBEs, for a total of \$200,000 or 88.08%. Four of the contracts were MBEs, for a total of \$75,000 or 24.83%. However, three of the MBEs were also WBEs and, therefore, included in both categories.

ELECTRICITY

The Department of Electricity provides repair and maintenance of traffic signals and City parking meters, wire line communication via fire boxes and Police ring-in telephones, operation of the central fire alarm station and dispatch services, and radio communications for the City including operation of the City-owned radio station on Twin Peaks.

The Department does no contracting.

EMERGENCY SERVICES

The Office of Emergency Services, operating directly under the Mayor, prepares and reviews plans, policies, and

procedures formulated to lessen the effect of disaster, regardless of cause. It coordinates between public utilities, the American Red Cross, the California State Office of Emergency Services, the Federal Emergency Management Agency, the various armed forces units, and volunteer organizations concerned with minimizing the effect of disasters.

This Office reported no contracting.

FINE ARTS MUSEUMS

The Fine Arts Museums of San Francisco operate the DeYoung Museum and the Palace of the Legion of Honor.

During calendar years 1981 and 1982, only twice were vendors recommended to the City Purchaser. These vendors were: American District Telegraph Co. (ADT), and Pacific Fire Extinguisher Co (PFE).

The museums receive only about half their operating support from the City, with the difference made up from private support, grants, and donations. Consequently, there are many purchases made with non-City funds.

FIRE DEPARTMENT

The Fire Department services include on-going fire suppression, fire prevention measures, inspection of all City buildings regarding compliance with the Fire Code, and

dispatch, from Central Fire Alarm, of emergency call units to provide medical or rescue service to the public.

There were 8 personal services contracts in calendar year 1981 for a total of \$152,740, and 8 for \$231,560 in 1982. All the contracts were to be for-profit individuals or companies except for the Boy's Club. None was awarded either to an MBE or a WBE in these two years.

<u>Company</u>	<u>1981 Dollar Amount</u>	<u>1982 Dollar Amount</u>
Dr. Jessica Gaynor	\$ 7,920	\$ 0
Glumac Associates	0	\$ 60,000
Barry Goetz	10,800	26,000
Richard Hansen	18,060	18,960
Dr. Christopher Hatcher	500	0
PSW3 Inc.	0	25,000
Public Technology, Inc.	0	27,500
S.F. Chapter Boys Club of America, Inc.	500	0
Sports & Fitness Research Institute	75,000	135,000
Norma Sweeney	2,730	0
Michael Taylor	<u>37,230</u>	<u>39,100</u>
	\$152,740	\$231,560

HEALTH SERVICE SYSTEM

The purpose of these contracts is to provide health services to City employees.

In 1981, seven contracts were let for a total of \$19,386,528 with no MBE/WBE participation. In 1982, contracts were let to the same providers for a total of \$22,894,593. The award process was Health Service System.

<u>Company</u>	<u>1981 Dollar Amount</u>	<u>1982 Dollar Amount</u>
Bay Pacific Health Plan	\$ 446,206	\$ 1,491,492
Children's Hospital	1,107,228	2,369,973
French Hospital	154,937	537,641
Kaiser	14,663,637	16,444,041
Paid Prescription	1,315,706	1,491,492
Rael & Letson	13,500	20,040
Vision Service Plan	<u>685,314</u>	<u>610,089</u>
	\$19,386,528	\$22,894,593

THE JUVENILE COURT

The Juvenile Court is a department of the Superior Court of San Francisco, having jurisdiction over the disposition of cases involving minors (under the age of 18) who are either law offenders, status offenders, or neglected or abused. The Youth Guidance Center is under the jurisdiction of the Court.

The Youth Guidance Center reported that it let 35 contracts, totaling an estimated \$10,000 per year.

LAW LIBRARY

The San Francisco Law Library has over 221,000 volumes covering both American and foreign law and is open to law students and the general public.

In Fiscal Year 1981-82, the Library paid \$238,836 to 30 businesses for services which included insurance, book binders and book suppliers. None were MBEs or WBEs. The businesses were chosen by staff selection. Almost all of the contracts were to sole source suppliers; however, the one for insurance coverage was not. In an interview with HRC staff, the Librarian stated: "I don't know why this insurance carrier was selected because it predates my involvement and I have been with the department for 30 years. The broker from whom the company was originally selected has long since been deceased."

MAYOR'S CRIMINAL JUSTICE COUNCIL

The Mayor's Criminal Justice Council's primary function is to review funding (State, federal, and City) for all criminal justice agencies responsible for all public protection departments (Fire, Police, District Attorney, Public Defender, Medical Examiner, and Municipal and Superior courts) for the Mayor. Under Assembly Bill 90, which was passed in 1978, the Council oversees a program called County Subvention for Status Offender Youth, which is

State-funded. It formerly administered federal Law Enforcement Assistance Administration monies, but this program expired in 1981.

Fourteen contracts were negotiated with community-based non-profit agencies in the calendar years 1981 and 1982. Awards are made on the basis of a Request For Proposal. The types of services provided by contractors were: counseling, tutoring, crisis intervention, and recreational services to juvenile status offenders and pre-status offenders.

MAYOR'S OFFICE OF EMPLOYMENT AND TRAINING

The Mayor's Office of Employment and Training (MOET) administers the federal funds which come into San Francisco under the Job Training Partnership Act (JTPA) to provide employment and training opportunities for the economically disadvantaged residents of San Francisco.

MOET's contracts were in three general categories: training subcontractors, On-The-Job (OJT) training subcontractors, and a miscellaneous group including subcontractors for audit services, lease agreements, and check preparation for participants.

In 1981, MOET contracted with 64 non-profit organizations for a total of \$14,370,417. MOET awarded 101

contracts to 88 profit-making companies for a total of \$635,923. These awards were all for OJT subcontractors or training subcontractors. Twenty-nine were MBEs which were awarded \$34,649, or 5.45% of the dollar amount. Seven WBEs were awarded \$17,403 or, 2.74% of, the dollar amount. Six were jointly-owned MBE/WBEs, which were awarded \$4,925, or less than 1% (.77%) of the total awards. The entire audit services contract went to an Asian Certified Public Accountant firm for \$99,547.

MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

The Community Development Program is administered by the Mayor's Office of Community Development (OCD). Agencies funded through the Community Development Program and Housing Assistance Plan principally benefit low and moderate-income persons, increase and preserve affordable housing, improve neighborhood environment, and increase economic development. The Mayor's Office of Housing and Community Development awarded 105, contracts in calendar year 1981 and 94 contracts in 1982 to non-profit organizations including local government, through a Request For Proposal process.

A contract for \$25,000 was awarded to a Black auditing firm for 1981 and 1982.

The Human Rights Commission, under contract with OCD, monitored construction contracts funded in whole or in part

by OCD. Some of these were awarded by DPW, while others were awarded by the housing development corporations as subcontracts. Therefore, these construction figures were not included in Tables 1 and 2 (Appendix C and D).

For the 1981 calendar year, the HRC monitored 40 construction projects. The total dollar amount for these projects was \$9,558,008. Of this amount, MBEs and WBEs were awarded contracts totaling \$2,893,265, or 30.2% of the total. Local prime contractors received contracts in the amount of \$2,186,407, or 23% of the total. Local MBE/WBEs received \$1,219,291, or 44% of the total awarded.

For the 1982 calendar year, 84 construction projects were monitored by HRC staff. The total dollar amount for these projects was \$10,657,344. Of this amount, MBE/WBEs were awarded contracts totaling \$3,661,101, or 34% of the total. Local prime contractors received contracts in the amount of \$5,900,894 or 55% of the total; local MBE/WBEs received \$2,258,462 or 62% of the total.

PARKING AUTHORITY

The Parking Authority handles City-owned parking garages and develops new parking facilities.

The total number of leases awarded by the Parking Authority to private operators during the period of 1952 through 1982 was 13. There was no MBE or WBE participation.

The total dollar amount for construction contracts awarded by the Parking Authority for the calendar year of 1981 was \$4,497,700. MBE participation was \$1,993,700 - or 44.33%. The total dollar amount for Parking for calendar year 1982 was \$5,351,200. MBE participation was \$1,172,578 or 21.91%. WBE participation was 0 for both 1981 and 1982.

PERMIT APPEALS

The Board of Permit Appeals, consisting of five persons appointed by the Mayor, hears appeals by persons or companies that have been denied permits of various kinds by the Police Department, City Planning Department, Department of Public Health, or Department of Public Works. The Board can either uphold the denial or grant the appeal.

The Board does not contract out.

POLICE DEPARTMENT

The San Francisco Police Department is charged with providing police protection.

In 1981, the Police Department let ten professional services contracts totaling \$411,329. Of these, eight were for-profit companies totaling \$131,379. The contracts

were for training, computer systems, and security systems. None were MBEs or WBEs.

PORT OF SAN FRANCISCO

Prior to February 7, 1969, the Port of San Francisco was owned by the State of California and administered by the San Francisco Port Authority, a State agency. On February 7, 1969, the Port was transferred to the City.

The Port of San Francisco entered into 63 contracts for purchase of goods and services during calendar year 1982, amounting to \$1,212,619.11. Two contracts were awarded to an MBE for \$52,560 or 3% and 4.5 contracts were awarded to WBEs for \$106,788 or 7%. No contracts were reported for 1981.

Three contracts for personal services were awarded to three non-profit organizations.

PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN

The Public Administrator/Public Guardian serves two primary functions; First, the Public Administrator probates estates when there are assets and no survivors, and secondly, the Public Guardian serves as conservator for people who have been declared incompetent and have no one else to handle their affairs while they are alive.

The Public Administrator/Public Guardian awarded two contracts for the years 1981 and 1982, totaling \$140,000 per year. One of the contracts was to an MBE for \$125,000 or

89.26% of the total dollar amount per year. The contracts were for funeral services and accounting services. These were awarded by staff selection.

PUBLIC DEFENDER

The Public Defender's office represents those persons who do not have the financial means to hire legal counsel to represent them in criminal, mental health and juvenile cases in Municipal, Superior and Juvenile Court.

The Public Defender's office reported no contracts.

DEPARTMENT OF PUBLIC HEALTH (DPH)

The services provided by the Department of Public Health (DPH) includes operating San Francisco General and Laguna Honda Hospitals and funding neighborhood mental health and crises intervention centers.

In 1981, the Department administered \$16,872,426 for 161 contracts for goods and services. These were: \$1,097,121 for 26 contracts for San Francisco General Hospital; \$167,310 for five contracts for Laguna Honda Hospital; with the remaining \$15,638,245 used for Community Mental Health Services, Community Substance Abuse Services, and various Department of Public Health contracts.

San Francisco General Hospital:

Of the 26 contracts awarded by San Francisco General Hospital, 25 were to profit-making companies for a total of \$977,121. These included consulting firms, business machine suppliers, hospital temporaries and security. None of the contracts was awarded to an MBE or WBE. The majority of these contracts were awarded by bid process.

Laguna Honda Hospital:

Laguna Honda Hospital awarded \$137,060 for five contracts in 1981, four of which were to for-profit companies. These were for consultants and computers. None was awarded to an MBE or WBE. Most were awarded by bid process.

Community Mental Health Services (CMHS):

Sixty-one contracts were awarded by CMHS for a total of \$11,210,328. Of these, six were to for-profit companies for a total of \$50,400. These included pharmacies and consultants. Two of the consultants were minorities and their total awards were \$11,693 or 24% of the total award to for-profit businesses. The contracts were awarded by bids and Request For Proposals.

Community Substance Abuse Service (CSAS):

CSAS awarded 39 contracts for a total of \$3,055,751. Of these, six contracts were to for-profit organizations for

a total of \$61,621, which included communications systems, security, and a consultant. The consultant was a woman, for \$2,000, or 3.25% of the total awarded to for-profit businesses. The contracts were awarded by bids and RFP.

Department of Public Health (DPH):

Contracts awarded directly by the DPH totaled \$1,243,858 for 30 contracts. Eighteen of these were to for-profit enterprises and totaled \$805,879. These included computer services, business systems, security and consultants. One WBE was awarded \$500, or less than 1% (.06%) of the dollar amount of the total contracts.

In 1982, the Department of Public Health administered \$21,471,215 for 186 contractors. These were: \$1,046,668 for 22 contracts for San Francisco General Hospital; \$299,522 for six contracts for Laguna Honda Hospital; with the remaining \$20,125,125 for 158 contracts with Community Mental Health Services, Community Substance Abuse Services and various Department of Public Health contracts. Seventy of the contracts went to for-profit enterprises. No contracts were awarded to an MBE.

San Francisco General Hospital (SFGH):

San Francisco General Hospital contracted a total of \$1,046,668 to 22 contractors. Of these, 20 were profit-making, amounting to \$921,598. These contracts were for consulting, business systems, and security. There were no MBEs or WBEs. The contracts were awarded by bid.

Laguna Honda Hospital:

Laguna Honda Hospital awarded six contracts for a total of \$299,522. None of these contracts went to MBEs or WBEs. The contracts were awarded by bid or staff selection.

Community Mental Health Services

Community Mental Health Services contracted with 53 businesses and agencies for a total of \$14,151,560. Nine of these were for-profit and accounted for \$143,154, while 44 were to non-profit agencies for \$14,008,406. These contracts were for pharmaceuticals, business services, and consultants. Of these, two MBEs were awarded \$8,942 for 6% of the total contracts. One of the consultants was an Hispanic WBE accounting for \$6,212 or 4% of the dollar amount. The contracts to for-profit companies were awarded by bid and staff selection.

Community Substance Abuse Services (CSAS):

In 1982, Community Substance Abuse Services contracted with 49 businesses and agencies for a total of \$4,275,730. Forty-one of the contracts were to non-profit agencies for \$4,187,964 and eight were to for-profit firms. These contracts were for business supplies and consultants. One MBE received a contract for \$300, or less than 1% of the total dollars. These contracts to for-profit companies were awarded by bid or staff selection.

Department of Public Health (DPH):

The Department of Public Health contracted out \$1,697,835 to 56 agencies and businesses. Of these, 34 were for-profit companies who were awarded \$542,841. These included medical services, business systems and consultants. Twelve were WBEs who accounted for \$36,346 or 6% of the dollars contracted. The contracts were awarded by bid or staff selection.

PUBLIC LIBRARY

The San Francisco Public Library not only provides book borrowing services but movies, story-telling hours, historical displays and equipment for the disabled. All Library equipment purchases in excess of \$200 and the vast majority of book purchases are made through the City Purchaser. Library leases were handled by the City Real Estate Department. Nearly all the purchases made by the Library from its revolving fund were for books or other Library materials, usually from small publishers which were the sole source of the needed material.

PUBLIC UTILITIES COMMISSION

The Public Utilities Commission (PUC) determines general policy relating to power, water, transportation and energy conservation in San Francisco. Its major divisions

were: Municipal Railway, Hetch Hetchy Water and Power and the Water Department.

In 1981, PUC awarded a total of \$10,453,377 to 60 contractors for construction, professional services and procurement contracts. There was a total of 66 contracts. There were forty construction contracts awarded for a total of \$7,667,398. Of these:

Hetch Hetchy Water and Power awarded 17 contracts totaling \$2,880,572. No prime contracts went to MBEs or WBEs.

San Francisco Municipal Railway awarded five contracts totaling \$1,024,546. No prime contracts were awarded to MBEs or WBEs.

San Francisco Water Department awarded 18 contracts totaling \$3,762,310. None of the prime contractors were MBEs or WBEs.

The PUC awarded a total of 18 professional services contracts for a total of \$2,688,415. Of this amount, one company was a WBE which was awarded \$20,000 or less than 1% (.74%) of the total dollar amount. There were no MBEs.

The PUC awarded eight procurement contracts to two companies for a total of \$175,564. Neither was an MBE or WBE.

In 1982, PUC awarded a total of \$81,719,582 to 66 contractors.

There were 49 construction contracts awarded for a total of \$64,711,464. Of these:

Hetch Hetchy Water and Power awarded 16 contracts for a total of \$10,279,698. None was to an MBE or WBE prime contractor.

San Francisco Municipal Railway awarded 13 contracts for a total of \$51,322,034. No prime contracts went to MBEs or WBEs. The Water Department awarded 20 contracts totaling \$3,109,731. No MBEs or WBEs were awarded prime contracts. Fifteen contracts for professional services were awarded to 10 consultants for a total of \$16,042,018. Of these, one was awarded to an Asian MBE for \$3,613,853 or 23% of the total dollar amount. There were no awards to WBEs.

Two procurement contracts were awarded for a total of \$936,100. Neither was to an MBE or WBE.

PUBLIC WORKS

The Department of Public Works' (DPW) main areas of responsibility are in the design, construction, maintenance and control of the use of a safe and clean City street

system. It provides building code enforcement capabilities to ensure public health and safety in existing and new privately-owned buildings. It is responsible for the construction, maintenance, and operation of a City sewage system and a City sewage treatment disposal system. Within the Department of Public Works there is a Bureau of Engineering, Bureau of Architecture, Bureau of Building Inspection and Property Conservation, Bureau of Water Pollution Control, Bureau of Building Repairs, Bureau of Street Repair, Bureau of Street Cleaning, and the Clean Water Program.

Two franchises were awarded through DPW for garbage pick-up. These were: Golden Gate Disposal Company and Sunset Scavenger Company.

For the 1981 calendar year, the DPW awarded 402 construction projects. The total dollar amount for these projects was \$41,565,267. Of this amount, 37 MBEs were awarded contracts totaling \$2,458,686. This was 5.92% of the total amount awarded. WBEs were not awarded any contracts.

For the 1982 calendar year DPW awarded 155 construction projects. The total dollar amount was \$12,774,214. Of this amount, eight MBEs and one WBE were awarded contracts totaling \$398,498. This was 3.12% of the total amount awarded.

CITY ARCHITECT

The Bureau of Architecture provides professional services for the planning, design and construction of City-owned buildings.

In 1981 the City Architect awarded eighteen personal services contracts for a total of \$140,150. Of these, three were Asian MBEs, which were awarded a total of \$18,917 in contracts or 13.50% of the total dollar amount.

In 1982, the City Architect awarded twenty-three contracts for a total of \$227,061. Of these, six were Asian MBEs which were awarded a total of \$29,500, or 12.99 % of the total dollar amount.

PURCHASING DEPARTMENT

The Purchasing Department purchases material and supplies for all City and County Departments.

The primary award process used by the Purchasing Department is competitive bid, however, negotiation and staff selection also are used.

During fiscal year 1981-1982, a total of 3216 Purchase Orders (PO) and Term Purchase Agreements (TPA) were let for \$106,887,383. Of this amount, MBEs were awarded 63 contracts which totaled \$1,862,334, or (.74%. One WBE received a contract of \$9,587, or 0.009% of the total amount.

For Fiscal Year 82-83, 3655 Purchase Orders and Term Purchase Agreements were let for \$186,819,562. MBEs were awarded 47 contracts, which totalled \$2,280,455 or 1.22%, while WBEs received four contracts for \$13,936 or .07 of one percent.

MBE vendors, listed in the monthly report of vendor payment warrants were for the fiscal years 81-82 and 82-83.

<u>MBE Vendors</u>	<u>Year</u>	<u>Amount</u>	<u>Materials And Supplies</u>
ACE Mailing	81/82	\$ 32,864.00	Mailing
	82/83	\$ 35,275.09	
Applied Microfilm Systems, Inc.	81/82	\$ 15,510.98	Microfilm
	82/83	\$ 10,337.41	Equipment
BASF Systems	81/82	\$ 38,408.41	Magnetic Tapes, Floppy
	82/83	\$ 27,826.72	Discs, Cassettes, Audio
Bayside Electrical Distributors	81/82	\$402,392.25	Electrical Supplies
	82/83	\$668,013.09	
Bloom, Donna (WBE)	82/83	\$ 3,250.00	
Brown & Sons Industrial Supply	81/82	\$122,596.81	Hardware
	82/83	\$ 85,605.26	
California Police Equipment Co.	81/82	\$ 3,152.92	Police Supplies
	82/83	\$ 8,205.83	
Carlos, Bea (WBE)	82/83	\$ 150.00	
H.V. Carter, Inc.	81/82	\$ 1,967.39	Garden Equipment,
	82/83	\$ 19,839.83	Lawnmowers, etc.
Centennial Distributors	81/82	\$ 7,446.48	Electric & Plumbing
	82/83	\$ 3,989.58	Supplies
Miguel Chavez	81/82	\$ 2,160.55	Christmas Trees
Mike's Christmas Tree Lot	82/83	\$ 1,854.20	
Communi-Comp	81/82	\$ 825.00	Typesetting
	82/83	\$ 2,267.25	

<u>MBE Vendors</u>	<u>Year</u>	<u>Amount</u>	<u>Materials And Supplies</u>
County Welding & Industrial Supply	81/82 82/83	\$ 14,335.51 \$ 7,273.13	Gloves, Safety Equip- ment, Safety Vests
Davidson Supply Co.	81/82 82/83	\$ 2,560.54 \$ 432.00	Gases, Freon
Del's Equipment Service Co.	81/82 82/83	\$ 6,113.21 \$ 8,766.88	Garage Equipment
Diesel Services Co.	81/82 82/83	\$ 20,656.35 \$ 9,358.24	Bus Parts
Eber Electronics	81/82 82/83	\$ 1,045.02 \$ 2,726.40	Stereo Equipment, Tapes, etc.
Erna Press	81/82 82/83	\$ 00.00 \$ 316.81	Printing
Ferry Steel Products	81/82 82/83	\$ 10,478.32 \$ 12,577.55	Storage Tanks
Finest Printing	81/82 82/83	\$ 4,015.56 \$ 11,542.47	Printing
Fireside Camera	81/82	\$ 527.86	Camera & Supplies
Fong Bros. Printing	81/82 82/83	\$ 27,109.94 \$ 5,020.85	Printing
Grant Printing	81/82 82/83	\$ 10,545.70 \$ 18,406.51	Printing
Hestor, Sue (WBE)	82/83	\$ 180.00	
Hover Electronic aka Hauer Electronic Supply	81/82 82/83	\$ 19,895.55 \$ 11,180.34	Electrical & Electronic Components & Supplies
Huddleson Equipment Company	81/82 82/83	\$ 11,199.95 \$ 7,586.32	Compressors
Industrial Materials Corp.	81/82 82/83	\$ 22,709.17 \$ 23,589.12	Industrial Materials
K.C. Dodge	81/82 82/83	\$244,246.39 \$302,329.52	Autos & Trucks

<u>MBE Vendors</u>	<u>Year</u>	<u>Amount</u>	<u>Materials And Supplies</u>
Kearney Wholesale Drug	81/82 82/83	\$ 13,989.52 \$ 17,167.35	Drug Wholesale
La Raza Translating Service	81/82 82/83	\$ 612.00 \$ 00.00	Translator
Levin's National Auto Supply	81/82 82/83	\$ 1,396.00 \$ 9,752.49	Auto Parks & Supplies
Life Assist (WBE)	81/82 82/83	\$ 12,298.76 \$ 12,612.96	
Light Sales, Inc.	81/82	\$ 20,261.41	Lighting & Fixtures
McCauley Tool & Supply Co.	81/82 82/83	\$ 4,199.62 \$ 7,894.00	Hardward & Tools
Meredith Sun NP	81/82	\$ 150.00	Printing
Modern Metals, Inc.	81/82	\$ 1,690.13	Medication Carts
Morgan Graphic Supplies	81/82 82/83	\$ 3,969.24 \$ 1,967.26	Graphic Arts Supplies
Nationwide Wire & Brush Mfg.	81/82 82/83	\$ 18,227.58 \$ 47,463.79	Power Broom, Sweeping Equipment
Neadho, Inc.	81/82 82/83	\$ 3,132.65 \$ 4,678.01	Trees, Flowers
Ohmura & Associates	81/82 82/83	\$ 2,077.67 \$ 4,119.05	Answering Machines, Calculators, Dictating Machines
P & F Distributors	81/82 82/83	\$ 339.44 \$ 1,795.55	Safety & Traffic Supplies & Equipment
Pacific Industrial Marine Co.	81/82 82/83	\$ 6,501.43 \$ 15,388.59	Rope
Pacific Safety Co.	81/82 82/83	\$ 16,505.80 \$ 29,543.47	Marker Lights, Chain, Rope. Safety Supplies, Hardware, Flags
Panama Pottery	81/82	\$ 1,548.87	Pottery
Poonak Supply	81/82	\$ 1,254.57	Plastic Film

<u>MBE Vendors</u>	<u>Year</u>	<u>Amount</u>	<u>Materials And Supplies</u>
H. W. Phillips Co.	81/82	\$ 3,409.99	Brake Parts
	82/83	\$ 192.55	
Prinova Co., Inc.	81/82	\$ 74,759.28	Laundry Supplies
	82/83	\$ 90,401.66	
Professional Elextric X-Ray	81/82	\$118,641.19	X-ray Equipment & Film
	82/83	\$212,112.39	
Racher Distributing Co.	81/82	\$ 265.70	Rainwear, Gloves,
	82/83	\$ 1,389.98	Safety Vests & Misc.
Roscoe's Lawnmover Sales	81/82	\$ 4,546.85	Garden Equipment
	82/83	\$ 3,350.81	
Royal Foods	81/82	\$ 5,658.08	Processed Fresh Foods
	82/83	\$ 8,714.75	
Royal Business Machines	81/82	\$ 96,246.09	Business Machines
	82/83	\$173,524.90	
J. Scott Co.	81/82	\$ 599.19	Batteries & Related
	82/83	\$ 1,049.03	Equipment
Security Center	81/82	\$ 456.57	Security Equipment
Shasta Hardware Inc.	81/82	\$ 64,138.06	Tools, Misc.
	82/83	\$ 52,951.20	Hardware
Steam on Wheels	81/82	\$ 740.00	Steam Cleaning
Steam Specialities Co.	81/82	\$ 723.66	Plumbing, Valves, etc.
Valley Auto Supply Co.	81/82	\$ 57,626.78	Auto Parts & Supplies
	82/83	\$ 58,875.18	
V-C Egg Co.	81/82	\$ 33,373.82	Eggs
Western Piping & Engineering Co.	81/82	\$ 8,532.78	Special Parts
	82/83	\$ 44,207.68	(i.e. Steering Rams)
Westoro Distributing Inc.	81/82	\$223,481.61	Lawn & Garden
	81/83	\$202,740.72	Equipment
Oxy Med Inc.	81/82	\$ 29,859.24	Respiratory Therapy
	82/83	\$ 11,230.76	

REAL ESTATE

This Department serves as the City's Real Estate Broker and Appraiser.

In 1981, four contracts were let for a total of \$27,050. No contracts were awarded to MBEs or WBEs. In 1982, ten contracts were let for a total of \$70,331. None went to MBE/WBE. All contracts were negotiated except for \$13,750, which was awarded through the bid process.

RECREATION AND PARKS DEPARTMENT

This department provides leases for recreation and concessionaires at the City Parks.

In 1981-82, 47 leases were awarded for a total amount of \$43,496,651. These were long-term leases.

Three MBEs, Asian-owned firms, received leases for a total of \$233,443. The percentage of MBEs participation was 0.5%.

REGISTRAR OF VOTERS

The Registrar of Voters is charged (under administration of the Chief Administrative Officer) with conducting all City, State and Federal elections held in the City and County of San Francisco. This office is responsible for registration of voters, with making extensive outreach efforts among language minority

communities, for distribution of bilingual and absentee ballots, for recruiting, hiring and training of poll workers, and for tallying, tabulating, and reporting the results of all elections.

Neither the Registrar's Office nor the Recorder does any contracting.

RETIREMENT SYSTEM

The Retirement System administers the City Employees' Retirement fund.

The system contracts with specialized contractors to handle these funds.

During the fiscal year 1981-82, eight contracts were awarded to the following: William & Robertson, Crocker National Bank, Xerox Corporation, American Stock Exchange, Dow Jones Co. NASDAQ, Inc., New York Stock, and Burns International. The first seven firms are investment brokers, while Burns International provides security personnel services. There were no MBEs or WBEs. These contracts were awarded on the basis of bid, Request For Proposal, or selection by management.

SAN FRANCISCO INTERNATIONAL AIRPORT

The Airport contracts are for construction consultants, and professional services.

During the year of 1981, 35 contracts were awarded for a total of \$74,124,213. Of these totals, three were MBEs, a

total of \$81,400 or .11%. During 1982, 28 contracts were awarded for a total of \$951,398. Of these contracts, five were MBEs for a total of \$11,284 or 1.12%.

The concession-leases are done on a competitive basis, and from the highest bidder as revenue producing. The concession or lease is awarded through the Airports Commission. There currently are nine MBEs and two WBEs holding concessions or leases.

SHERIFF

The Sheriff's Department is responsible for the custody, in four City and County jails, of adult prisoners, and for maintaining these institutions and security in them. Through its Civil Division, it carries out evictions based on court orders, and garnishee of salaries (also court-ordered and implemented). It maintains security, through Sheriff's bailiffs, in the Municipal, Superior, and Juvenile Courts of the City and County of San Francisco.

The Department reported no contracts except with the Pre-Trial Diversion Project, a non-profit group.

SOCIAL SERVICES

The Department of Social Services (DSS) provides financial, medical and social services to all eligible persons in San

Francisco, and the Social Service Commission sets policy for the department.

In 1981, the Department of Social Services let a total of 30 contracts for a total of \$5,658,290. Of these, 15 contracts were to for-profit enterprises for a total of \$4,523,902, and 15 were to non-profit agencies for \$1,134,392. Six MBE and WBE contracts totaled \$155,940, or 3% of the total dollar amount to for-profit firms. In 1982, the DSS contracted out \$8,147,876 to 23 contractors. Thirteen of these were for-profit companies and accounted for \$5,658,113. Awards to 6 MBEs and WBEs totaled \$151,640 or 2.68% of the money awarded. The contracts were awarded by bid or staff selection.

SPECIAL PROJECTS

The Mayor's Office of Special Projects has three main functions: the rent supplement program, the temporary rent assistance program, and the Relocation Appeals Board.

This Office reported that it awarded no contracts, franchises, leases, concessions or other agreements in 1981 or 1982.

TAX COLLECTOR

The Tax Collector is responsible for collection of all municipal tax money, including the parking meter fares.

For Fiscal Year 1982-1983, the Tax Collector's office awarded a total of \$335,765 to two contractors. These were for services rendered in the collection, counting, and depositing of parking meter money. Neither of the awards was to an MBE or a WBE.

TREASURER

The Treasurer's Office is responsible for the investment and deposit of all public monies.

The Treasurer's Office awarded two contracts in calendar years 1981 and 1982. These totaled \$33,600 per year and were for computer systems for accounting and ongoing investment.

In Fiscal Year 1981-82, the Treasurer's Office deposited \$123,009,152 in 51 banks and savings and loans of which 27 were banks and 24 were S&Ls. County deposits in S&Ls are restricted to one hundred thousand dollars per institution. Sixteen were minority-owned with deposits of \$47,912,765 or 38.95%. Of these, 2 Black institutions had deposits of \$600,000, 6 Chinese for \$10,782,765, 2 Filipinos for \$11,290,000, one Hispanic for \$100,000, and 5 Japanese for \$25,150,000. In addition, there was one Gay S & L for \$100,000. There were no women-owned institutions. Of the 16 MBEs, 11 were banks and 5 were S&Ls. For FY 82-83, \$67,970,883.58 was deposited in 46 banks and S&Ls, of which 24 were banks and 22 were S&Ls. Seventeen were MBEs and 5 of these were S&L MBEs. The total MBE deposits for these were \$54,550,883.58 or 80.26%. The ethnic breakdown was as

follows: 2 Black for \$200,000, 7 Chinese for \$32,300,000, 2 Filipino for \$6,055,062.83, 2 Hispanic for \$1,100,000, and 4 Japanese for \$14,895,820.75. The one Gay S&L had a \$100,000 deposit. There were no WBEs. The 13 Asian banks and S&Ls accounted for 97.62% of the MBE total \$53,250,883.58 of \$54,550,883.58, Overseas-controlled Asian institutions had deposits in excess of \$28,000,000. Deposits of City funds by the Treasurer in banks and savings and loans were not included in the chart of City contracts because these were time deposits.

SAN FRANCISCO WAR MEMORIAL AND PERFORMING ARTS CENTER

The San Francisco War Memorial and Performing Arts Center manages the War Memorial Opera House, Davies Symphony Hall, Herbst Theatre, Veterans Building and the Museum of Modern Art in the Civic Center.

Two contracts were let for the fiscal year 1981-82. One of the contracts was to the S.F. Performing Arts Foundation, a non-profit entity for \$820,220. The other was to CommAir Mechanical Services, a for-profit company, for \$205,000. There were no MBEs or WBEs. The two concessions' grants were for food and a souvenir/program. The agreement for the food concession runs until 9/1/90 and the souvenir/program concession is renewed on a yearly basis. The War Memorial realized the following revenues:

	<u>Greyhound Food Management</u>	<u>Jerome Friedman</u>
FY 1980-81	\$142,551	\$19,849
FY 1981-82	\$135,294	\$22,353

B. Public Hearing Testimony.

Peter LaBrie, Department Of City Planning

The first departmental representative was from the City Planning Department, Mr. Peter LaBrie, a Planner III, with management, budget, and personnel. Mr. Labrie was relatively new to the Department and did not have specific information on the performance of the Affirmative Action program in terms of measurable data. Peter LaBrie represented Milton Edelin, the Deputy Director of Planning, who is actually responsible for their Affirmative Action Program.

Most of City Planning's contracts are for professional services: city planning firms, architectural firms, or environmental planners. During the last couple of years, most of the contracts have come into its grant budget and these were generally small contracts, about \$15,000-\$25,000. In some cases, they do have larger contracts such as the Downtown Plan.

They have an Affirmative Action Plan for minority businesses, with goals and encouragement of hiring minorities and women. Mr. LaBrie thought that their performance has been good with the larger contracts in terms of having a large environmental city planning firm or architectural firms which use women or minority firms as subcontractors. In terms of smaller contracts, Mr. LaBrie thought that they have been more successful with ethnic

minorities. In every case, they have a list of minority and women firms from which they solicit proposals.

George White, San Francisco Clean Water Program

The total dollar amount of construction contracts issued in 1981 and 1982 has been approximately \$208 million. Of that amount, \$40 million went to MBEs. This is approximately 19%, which exceeded the goal system established in concert with the Environmental Protection Agency (EPA) as well as the State. Most of the amounts have been for the calendar year of 1981 only. However, the program in general at this moment is taking a down turn in terms of contract issuance. Mr. White stated if they didn't get more State and Federal funding on top of the cutbacks on EPA funding by the national administration, the Clean Water Program would most certainly be impacted by these cutbacks.

For the architects and engineers, they had issued \$22 million in contracts, and of that amount, approximately \$3.5 million (16%) went to MBEs. Again, the bulk of that occurred in 1981.

With the WBEs, the program had a 2% goal which was established pursuant to the HRC requirements. Approximately a million dollars was awarded to WBEs in calendar years 1981 and 1982.

As for the Program's goal system and how it works, in construction, it has a goal as established with the EPA

and the State of 16.1% for MBEs. In those areas, they have had about seven major contracts, and the range was from a low of \$134,000 to a high of \$150 million. The high (for MBEs) being for one contract, which was called N2A, was about \$1.9 million. They do have a low of one contract which was for \$134,000, of which \$6,700 went to minorities.

On the architects and engineers and the consulting contracts, \$22.5 million was awarded for the two calendar years, 81-82. \$3.8 million (17%) was awarded to MBEs. Their EPA goal was 15% .

Mr. White stated most MBEs are in subcontract status. In terms of how minorities and women deal directly with City agencies, Mr. White brought up the construction management firm, Deluew, Greeley and Hyman. Whenever they have items, usually they go to the management firm to look for a minority firm.

Mr. White recognized the existing problem of minority firms not able to get the bonding and not able to come to bid on the contracts. For the non-bid area, the RFP comes into the picture. Their selection process involves four different types of responsible people; construction management, a minority liaison woman, a representative from the HRC, and a project manager. In each case, when they're evaluating contracts, they are looking to determine whether or not the MBE requirement has been met. If that requirement is not met, then that bidder's RFP is set aside

in most cases. If it is met, it goes to a technical review process where experts in oceanography or geotechnology or an appropriate field survey the competence of the firm to perform the job.

Mr. White stated that the tendency to continue with the existing firm until Clean Water becomes dissatisfied rather than to open it up to an objective competition of all applicants does present itself as a constraint on minority firms' participation. Mr. White stated he had certainly made an effort to open up the planning process for minorities, usually jobs from \$25,000 to \$250,000. He feels he has had some success.

Finally, Mr. White commented that the Clean Water Program had its highs and lows with respect to any contracts or with respect to construction contracts. The composite has been generally positive, and he thinks he has a reasonable record in the area.

Anthony Taormina, Port Commission

The San Francisco Port Commission has been involved in construction, architecture, and engineering. Their construction contracts are all done on a competitive bid basis. Therefore, the MBE components of construction contracts are really a part of the compliance and review function of the Human Rights Commission to the extent that the Port's engineering department in construction contracts

works with the HRC Compliance Officers in terms of reviewing the bids and the responses and then recommending whether the contractors are in compliance prior to award by the Port Commission.

In the area of architects and engineers, they do not competitively bid architectural and engineering services. The Port Commission staff and the engineering department solicit Requests For Proposals in a number of ways, depending on the nature of the project. In some cases, if the project is a large urban planning project, it may be done in conjunction with the City Planning Department, the Port, and the Redevelopment Agency. So, to that extent, all three departments are working together, developing RFPs, and selection is generally done and developed by these three agencies.

Their MBE participation percentage goal has always been twenty-five percent. Goals established for the Port Commission are those goals which will be established by the HRC. Mr. Taormina admitted that most MBEs that get involved in their projects end up in the sub role but not in the prime role. He is fully aware of that problem and is slowly attempting to address it.

The Port's general approach in the areas of trying to improve the MBE coordination is to develop capital programs. By utilizing these programs fully, they would be able to use more outside services instead of in-house staff. In terms

of work that is not necessarily unique to the Port of S.F., they will look over a list of potential firms. They will then contact these firms and, based on their qualifications, past performance, and experiences, select the firm which most professionally fits the nature of the work they need done.

Mr. Taormina said the Port tries the best it can to bring in MBE firms. However, one main constraint he faces is the fact that the Port doesn't have a very good outreach outlet. They are provided lists from the HRC but that doesn't help them in understanding the firms' business nature. He feels that going out and meeting with firms gives him a better idea of who the people are and serves as another way to work with new firms. Mr. Taormina said he makes a concerted effort to solicit minority business participation. One example he gave was a major version of the San Francisco passenger terminal, which was simply architectural. A \$1.6 million contract was awarded as a prime to a minority business enterprise. Also with the Southern Water Program, which is approximately a \$100 million capital project. Once the Port undertook the program, it established procedures and goals to ensure that all contracts meet and comply with the MBE programs established by the HRC.

Next year, they plan to work-order approximately \$65,000 to \$70,000 to the HRC from the Port Commission with

the specific purpose of having a full-time program at the San Francisco Port Commission similar to that established at the San Francisco International Airport and also in developing a good outreach program.

Gary Seib, Contract Administration Division, Department of Public Works (DPW)

Norman Karasick, (DPW) Bureau of Architecture, DPW

Andy Lee, Recreation and Park Engineering Division, DPW

Construction contracts are bid. Invitations to bid are advertised in the San Francisco Progress. A copy of the ad is posted in Room 265 in City Hall. A notice of receipt of informal bidding is posted for three days to advertise and solicit bids for informal contracts (under \$15,000). The low bid is the apparent successful bidder. DPW staff sends bid packages to the HRC for review. The standard HRC Affirmative Action program for construction contracts is used by DPW.

Professional contracts, architectural and design, are not required to bid. Selection is based on matching the right firm with the right work. Files of different firms are maintained, and used as the pool of potential contractors. All contracts are referred to the HRC for review of Affirmative Action compliance.

The Bureau of Architecture has a goal of 20% of contract dollars to be allocated to minority-owned firms. This past year, the Bureau allocated 19.9% of dollar volume to minorities. The City Architect stated, in response to a question, that the Bureau had been successful.

The Recreation and Parks Department engages consultants for planning design services through the DPW. Either the interview process or DPW's recommendation, based on a consultant's track record, are used to select the consultant. In response to a question by a Commissioner, the Contract Administrator, the Recreation and Park Engineering Division of DPW, stated that a consultant's track record is defined as the performance in previous contracts with DPW. Therefore, someone who has no experience with DPW will never get a contract.

Jason Yuen and Marcel Conrad, -- S.F. Airports Commission

In 1969, the Airports Commission adopted a policy that any project under \$2 million had to go to only minority firms. Since then 100% of the architectural contracts have gone to minority firms.

Mr. Yuen recommended that the City adopt a uniform policy for each City department on affirmative action; specifically, a set-aside program. He reminded the Commissioners of their responsibility to press for such legislation to give minorities their fair share.

Concession leases have a goal to set aside 25% of discretionary concession leases for small businesses. Size

limitation was the only permissible criterion to set-aside leases to facilitate MBE and WBE participation. The principal concession concept was designed and implemented to thwart the negative impact of high rents.

Mr. Conrad commented that the only auditing contracts awarded in the past 3 years were awarded to MBEs. He recommended that a set-aside program be developed for specific target groups.

Extensive discussion continued regarding Oakland's set-aside program, Atlanta's affirmative action program, and the City Attorney's ruling regarding the constitutionality of minority set-aside programs.

Julian Rhine, Controller's Office

Mr. Julian Rhine, Counsel for the Controller's Office, testified that the majority of the contracts for the Controller's Office are made through the Purchasing Department. The Controller has exclusive contractual authority over City audits.

In 1981, the Board of Supervisors created the Audit Advisory Committee which is composed of the Mayor or her designee, President of the Board or her designee, and the Controller or his designee, and two public members who are nominated by the Mayor and approved by the Board of Supervisors.

The Committee, among its duties, recommends the auditors who are to perform the annual audit. At the present time, there is consortium of three auditing firms which are

the principal auditors. These are members of the "Big Eight". They are in the third year of a five-year contract. The consortium consists of three firms: Peat, Marwick & Mitchell, Stephen Yuen and Morris Davis. The actual audit is divided into three groups: Group A is the general City audit and is done by the Consortium; Group B, the Public Utilities Commission, is done by a consortium of Stephen Yuen and Deloitte, Haskins and Sells. One of the reasons these consortiums are formed is to give some of the work to small minority firms which are unable to do an entire audit.

Other minority firms involved in audits are: Andrew Au, Jeanpierre Taylor & Co., Anderson & Seiki and Lien and Quan.

When other auditing services are required, the Controller's Office sends out requests for proposals to minority firms along with other firms. Names of minority firms are supplied to the Controller by the Human Rights Commission. The proposals are then received and reviewed by the Controller's Office and the department which would be involved.

Robert F. Cowan -- Department of Social Services

Mr. Cowan, Assistant Director of the Office of Contract Compliance for the Department of Social Services, stated that DSS contracted with 34 organizations and individuals during 1981 and 1982. Of 13 individuals, who are mainly

consultants or psychologists, 7 are women or minority. Fifteen of the organizations are non-profit, 2 of which are MBEs or WBEs.

There are mainly two categories of contracts let; service contracts for clients, and staff training and development contracts. DSS is governed by State regulations in the awarding of contracts of over \$10,000 annually. They are required either to go to competitive bid or get a waiver of competitive bid from the State. Most of the contracts, however, are small and don't go to formal bid.

(In response to previous testimony, Mr. Cowan stated that no accountant contracts have been awarded by DSS.)

In response to a question about the auditing of children's institutions, Mr. Cowan said he wasn't sure who did the auditing. He said his department only audited their own larger contracts.

Regarding DSS contracts which go through the Purchaser's Office, Mr. Cowan stated that he does not handle the bidding on those.

He stated that there is very little publicity for the individual service contracts and news is probably spread by word of mouth. He stated that ". . . I'm usually assigned a contract. I'm told to put through a contract and that is what I am told."

Mr. Cowan said he did not know what methods, if any, are used to ensure affirmative action by the person who told him to put through the contract.

Mr. Cowan stated that a very rough guess of the amount of money contracted out by DSS was in the millions of dollars.

Robert Tecco -- Purchasing Department

Mr. Tecco recommended an MBE/WBE Program, which would permit the department to direct "open market" purchases to the MBE/WBE program with local vendor preference that will require all departments using personal and professional service contractors to seek out and hire, where practical, minority and local vendors.

He initiated hiring additional personnel in the 1983-84 budget, to implement and monitor a new MBE/WBE Vendors Program, which will enable buyers to assist vendors in bid preparation and assist the vendor in prompt payment. He emphasized 3 types of contracts, "formal", informal", and "open market". Since "open market" purchases don't require the solicitation of bids, the award is made at the discretion of the buyer or Mr. Tecco himself. The term "lowest reliable and responsible" bidder was discussed at great length. Mr. Tecco stressed that the meaning of the term is determined either through past performance and knowledge of the bidder's ability to perform a contract, or the company

is investigated and background research done whenever a new company applies for contracts.

Mr. Tecco suggested establishing methods of identifying MBE/WBE vendors, creating an MBE/WBE directory of vendors, and using local vendor preference to promote MBE/WBE participation.

He discussed methods of awarding all bids over \$50,000. Generally, the bidders are known to the City Purchaser, and those vendors who have worked with the City Purchaser over a long period of time are the companies to which the bids are awarded to most often. Since "formal contract" must be advertised bids, in those instances, Purchasing does not require performance bonds, only that they have the proper product to furnish and are qualified to furnish it. Mr. Tecco stated that all people doing business with the City & County of San Francisco, must comply with Section 12(B).4 of the Administrative Code. However, the grey area is anything below \$50,000, in making sure companies are in compliance. Therefore, he advocates that the HRC and Purchasing address the need for increased compliance by business. Efforts must be made to encourage MBEs to pursue the "informal" and "open market" bid contract, since the largest portion of contracts are awarded in these two categories and they can be awarded at the discretion of the Purchasing Department.

Mr. Tecco feels that his challenge is to go out and find more MBE/WBE vendors to come and see what Purchasing

has to offer and to participate as vendors. Therefore, he is requesting a legal opinion as to MBE/WBE set-asides under the Charter and the Administrative Code.

Robert Gamble -- Office of the Chief Administrative Officer

During 1982 the CAO performed an internal study of the Purchasing Department. The follow-up study that was recently completed confirmed the internal study findings and recommended a number of causes of action to correct those problems. Courses of action taken were the institution of a comprehensive vendor list, and implementation of extensive automation, including the institution of material management systems throughout user departments in the City.

Mr. Gamble stated that the recommendations of the study will not only improve the opportunities for MBEs and WBEs, but will also improve the overall efficiency of the operation of the Purchasing Department throughout the departments of the City. Also, a part of the plan is to set up an Advisory Committee that would include representatives from MBEs and WBEs. Their role will be to oversee the study, which is designed to open up opportunities for minority and women businesses. The Advisory Committee will oversee the implementation of those recommendations.

Arnold Baker -- Public Utilities Commission

The PUC awards three kinds of contracts:

1. Construction;
2. Professional Services;
3. Informal.

For construction contracts the PUC can use the invitation to bid, though usually they advertise in the Progress newspaper.

After the bids are received and the low bid has been established, the bid proposal of the low bidder is reviewed to determine if the MBE/WBE and affirmative action goals have been met. If the low bidder fails to meet the goals, the second low bidder's proposal is reviewed and up the line until an eligible bidder is determined. Once an eligible bidder has been established, the Contract Compliance staff informs the Engineering Bureau that the bidder is acceptable.

Professional Service contracts are by invitation and advertised.

Informal contracts are by invitation.

The selection of firms for Professional Service and Informal contracts are made by a committee. They are rated on such things as their affirmative program and technical qualification. The Contract Compliance staff is part of this committee and their vote is at least equal to or greater than the other committee members.

The MBE/WBE goals for construction depend on the type of contract. Construction contracts are categorized by type. Type A is for construction above the ground and the goal generally is 25%. Type B is construction at ground level or below and the goals vary depending on the availability of MBE/WBEs.

For Professional Service contracts the goal is usually 25% MBE and 5% WBE. For informal contracts there are no goals. These contracts are low in dollar amount, between \$2500 and \$15,000. They attempt to get bids from minority and women-owned firms. The low bidder is awarded the contract if the bidder has the ability to complete the job in time.

Contracts are rebid if the bid amount is over the budget allotted for the project. No mention was made in the presentation as to whether projects are rebid if bidders do not meet MBE/WBE and affirmative action goals.

Milton Edelin -- City Planning

City Planning selects contractors and consultants whom they feel have the necessary skills to perform the service and send them a Request for Proposal. Once they receive the proposals they review them to determine who is qualified to perform the service for the available money. They use the Minority and Woman-Owned Business Enterprise Directory prepared by the HRC as a resource. The speaker felt it

might be a good idea to check the records of firms on their MBE/WBE participation on projects that had no MBE/WBE requirements to see if they were really committed to the affirmative action process.

Since many of the MBE/WBEs don't have a track record of performing services with City Planning, it is the feeling of this speaker that the best method of getting them involved is through a joint venture.

James Breslin - Purchasing Department

The Purchasing Department has no established procedures for other departments in obtaining consulting services or personal services contracts. Some departments put out their own request for proposals and submit it in the form of an agreement. They are checked by the Purchasing Department to determine if it meets their guidelines, the City legal requirements, and insurance. If the necessary requirements are met, it is signed and becomes a contract. Other departments have the Purchasing Department advertise, seek out proposals, and package them. They are then turned over to the department making the request for their evaluation. The department has complete control. In other cases, contracts will be let based on the recommendation and signature of the department head.

His priority is to establish criteria that would incorporate participation of MBE/WBEs as part of the formal

procedure into the format and establish a directive issued to all of the departments as to how they will ask the purchaser for his approval and his signature to execute personal service contracts.

More can be done to promote MBE/WBE participation in personal service contracts because it is an area that is discretionary, because they don't have to be subject to the bid process if the dollar amount is \$5,000 or less.

CHAPTER THREE: ANALYSIS OF DATA

1. Public Testimony

Public testimony was received from 58 persons, representing organizations, companies, or themselves. Of these, 42 were oral presentations and 16 submitted written testimony. Those testifying argued for an MBE/WBE policy with strict monitoring; the establishment of local preference; liaison between the City and MBEs/WBEs for information accessibility; and the revision of affirmative action goals. The absence of a consistent City and County-wide policy was also a major concern.

What was characterized as the "Old Boy Network", or doing business with the same companies repeatedly by habit or convenience, was seen as a virtually insurmountable obstacle to expanding significantly MBE/WBE participation. Race discrimination was charged in six instances. Eight charged that some (non minority) prime contractors used MBE/WBEs subcontractors to qualify for contracts but that, once awarded, the subs' portions were frequently reduced or totally eliminated.

Among the problems cited in MBE/WBE participation were: lack of prompt payment; the need for technical assistance to

MBE/WBEs; lack of availability of information on procedures used to choose consultants; and failure to disseminate information on bid solicitations and request for proposals, thereby effectively limiting minority participation.

To rectify the problems cited and to permit MBE/WBEs to participate equitably, numerous concrete recommendations were made, such as:

- a. Establishment of a City Liaison Office staffed by minorities and women;
- b. set-aside goals for MBEs and WBEs;
- c. training seminars for City staff awarding prime contracts;
- d. breaking down large prime contracts into smaller components;
- e. formation of a committee of minorities and women for selecting bona fide MBE/WBE contractors;
- f. an over-all central office listing all bids and Requests for Proposals pending and current;
- g. utilizing affirmative action compliance as a factor in employee staff performance evaluation;
- h. overall responsibility for increasing MBE/WBE participation vested in the Mayor and the Chief Administrative Officer; and
- i. a requirement on private developers who develop plans for City approval to implement MBE/WBE goals.

No public testimony supported continuation of the present award process status quo nor the present level of MBE/WBE participation.

Among the concerns articulated in public testimony was that MBEs and WBEs were recruited by companies seeking to be the winning bidder on a prime contract in order to conform to the HRC goals for subcontracting. Once the award had been made, MBEs and WBEs charged that they were frequently dropped altogether as subcontractors or their participation was reduced substantially or, further, that unwarranted costs were assessed against them, thereby reducing their share. It was alleged that having MBE/WBE goals apply only to subcontracting by the prime without strong post-award monitoring of subcontractor utilization does not help the very groups which the HRC is seeking to benefit by affirmative action programs.

2. Departmental Responses

Of the 56 departments, bureaus, or divisions contacted, 8 were bureaus or divisions subsumed under other reporting entities. Ten did no contracting, 4 contracted primarily with non-profit organizations, 19 reported 15 or less contracts per year, and 15 awarded in excess of 15 contracts annually.

The eight bureaus to which correspondence was initially sent which were subsumed under other reporting entities were: the Emergency Hospital, Laguna Honda Hospital, and San Francisco General Hospital which were handled through the Department of Public Health; included under the Public Utilities Commission, Hetch Hetchy, Municipal Railway, and the Water Department; the Employee Relations Division, which has a contract with the Board of Supervisors; and The Bureau of Architecture, a bureau subsumed under the Department of Public Works.

Those ten departments doing no contracting were; the Asian Art Museum, Board of Permit Appeals, Adult Probation, the California Academy of Science, Electricity, Emergency (Disaster) Services, Public Defender, Registrar of Voters, and Special Project division of the Mayor's Office. The California Academy of Science acts as its own non-profit corporation.

Four departments contract primarily with non-profit organizations, the Assessor, the Commission on the Aging, the Mayor's Criminal Justice Council, and the Mayor's Office of Housing and Community Development. The Assessor has audit contracts with state agencies. Minority and/or women-dominated services agencies were used extensively by the other three departments.

Reporting 15 or less contracts per year were 19 entities: the Board of Supervisors, City Attorney, City Planning, Civil Service, District Attorney's Office, Economic Development Advisory Council, Fine Arts Museum, Fire Department, Health Service System, Parking Authority, Police, Public Administrator/Public Guardian, Real Estate, Recreation and Park, Retirement System, Sheriff's Department, Social Services, Tax Collector, and War Memorial Board.

The 15 departments and bureaus reporting in excess of 15 contracts annually were: the Art Commission, the Chief Administrative Officer, Clean Water, Community College, Controller, Juvenile Court, Law Library, Mayor's Office of Employment and Training, Port, Public Health, Public Utilities, Public Works, Purchasing, San Francisco International Airport, and the Treasurer. The awards of these departments range from 22 contracts to 16,142 purchase orders in one year. However, the sheer number of contracts was not directly proportional to the total dollar amount awarded by a department. For example, the Clean Water Program had four construction contracts and eleven consultant contracts in 1981 for dollar amounts respectively of \$206,697,528 and \$17,445,205, totaling \$224,142,733. At the other extreme was the Juvenile Court, with 35 contracts totaling \$10,000.

Generally, the departments with which the HRC has work order funding to monitor and implement affirmative action programs, the Clean Water, Convention Facilities, Port, and SFIA, have significantly higher MBE and WBE participation than those with which the HRC does not have such a relationship. However, this participation is almost exclusively at the level of subcontracts, because the HRC program requires the prime contractor, rather than the awarding authority, to meet MBE and WBE goals.

Three departments: Recreation and Park, the San Francisco International Airport, and the War Memorial Performance Arts Center, reported funds received from concessions and leases. Recreation and Park reported 47 leases in 1981 for \$21,748,325. Of these, three, or .5% for \$116,721 were to MBEs. None were to WBEs. The San Francisco International Airport reported 75 concessions in 1981 for \$90,108,000. Of these MBEs had 9 for \$120,474, or .13%, and WBEs had 2 for \$1,780, or .0019%. For 1982, 87 concessions were reported totalling \$122,132,000. Of these, 9 were to MBEs for \$120,474, or .13%, and 2 were to WBEs for \$1,780, or .0019%. The War Memorial Performing Arts Center had two concessions. The revenue received by the Center was \$162,400 for FY 81-82 and \$157,647 for FY 82-83.

Deposits of City funds by the Treasurer in banks and savings and loans were not included in the chart of City contracts because these were time deposits which did not meet the classical definition of contracts. The bulk of the

banks were wholly-owned subsidiaries of foreign corporations. However, the savings and loans were primarily domestically-owned. For FY 81-82, \$123,009,152 was deposited in 51 banks and S&Ls. For FY 82-83, \$67,970,883 was deposited in 46 institutions.

Three franchises were awarded. Two: Golden Gate Disposal Company and Sunset Scavenger Company were awarded through the Department of Public Works for garbage pick up, while the cable television franchise was awarded by the Board of Supervisors to Viacom Cablevision.

3. MBE/WBE Participation in City Contracts as Subcontractors

For the construction contracts monitored by the Human Rights Commission, of the \$275,297,127 was awarded during the 1981 period, [February, 1980 - September, 1981] of this, 18.0% or \$49,643,787 went to MBEs, of which, 79.03% or \$39,235,213 were for subcontracts, while only \$10,403,574 or 20.97% were to MBE primes, including joint ventures. All of the \$308,874 or .1% to WBEs were subcontracts.

In the 1982 calendar year, the total dollar amount of construction contracts was \$61,839,600. The MBE portion, 20.5%, was \$12,678,434. Over 90% [91.37%] or \$11,583,983 were for MBE subcontracts, leaving 8.65% or \$1,044,451 for MBE prime contractors. All of the \$282,662 or .5% for WBEs was at the subcontracting level.

For the construction architects and engineer contracts monitored by the Human Rights Commission, MBEs participated approximately equally as prime and as subcontractors. In 1981, A/E MBEs were 37% or \$9,300,447 of the total dollar amount of \$25,289,591. Of that prime contracts to MBEs were \$3,988,452, 42% of the MBEs participation or 15.78% of the total contracting dollar. MBE subcontracting accounted for \$5,311,995 or 57.12% of the MBE total or 21.01% of the overall total. WBEs were all subs and received \$658,408 or 3%.

In 1982, the total A/E contracts were \$37,873,058, of which MBEs were \$14,076,319 or 37%. The participation of MBEs as primes was even greater than in 1981: 19% of the total contracting dollar or 51.12% of MBE contracts totaled \$7,195,881.02 as primes. MBE subcontracting was \$6,880,437.98 or 48.88% of all MBEs or 18.17% of the total. WBEs at 4.54% or \$1,721,070, were all subcontractors.

No department was requested to submit subcontracting data as part of this report. The subcontracting information included herein was from those contracts above as specified dollar amount monitored by HRC staff. Between one-fourth to one-half of the construction and A & E contracts awarded in departments monitored by the HRC were not included because these fell below the dollar monitoring level.

4. Availability

Using as the base, San Francisco County 1980 population was 678,974 and the San Francisco-Oakland Standard Metropolitan Statistical Area (S.M.S.A.) was 3,252,721. San Francisco has 47% of minorities and the S.M.S.A has 22.82% minorities. These figures are taken from the 1980 Census. The goal of 30% for MBEs proposed in the remedial legislation was arrived at by the combination of both factors: San Francisco and the S.F.-Oakland (S.M.S.A.) came to 37.6%. 7.6% is the average for error that could be adjusted. With respect to the percentage of Women, San Francisco had a population that was over 50%, and the S.F.-Oakland S.M.S.A., 48%. Women represent 45.19% of the civilian labor force in San Francisco and 44.35% of the S.F.-Oakland S.M.S.A. There is more than enough justification for the 10% for WBEs in the proposed legislation.

MBEs are in excess of 30% and WBEs are between 10% to 15% of San Francisco firms.

An availability estimate against which the ethnic distribution of contract awards to architects and engineers can be measured by analyzing the ethnic distribution of MBEs in the Minority and Woman-Owned Business Enterprise Directory, San Francisco Bay Area, Architects/Engineers/Planners and Related Services, published in January of 1983 by the HRC and Environmental Science Associates, Inc. Availability was difficult to assess accurately, as it is influenced by the number of firms which

actually want to work for the City and also by the number of firms offering the kinds of services the City needs in any given year. However, the Directory was the result of a concerted outreach effort and indicated, at least, some interest in City work by the listed consultants as each responded to the HRC's invitation to be included. In order to indicate the widely increased availability of MBEs of all ethnic groups over the last three years, a comparison of the 1980 and 1983 editions of the Directory is provided. The ethnic breakdown of the firms in those Directories was:

<u>Minority Firms</u>	<u>1980</u>		<u>1983</u>	
	Number	Percent	Number	Percent
Black	18	14%	71	28%
Hispanic	15	12%	34	13%
Asian	90	72%	140	55%
Filipino	1	1%	8	3%
Native American	1	1%	2	1%
<hr/>				
TOTAL	125	100%	255	100%

Asian, Black, and Hispanic contractors represented 96% of the MBE/WBE participation in construction contracts. The underrepresentation of American Indians, Filipinos, and women was apparently due to their extremely limited availability as construction firms.

CHAPTER FOUR: FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

I. Findings

The Human Rights Commission, having conducted public hearings in February, March, and April of 1983 to determine the extent of Minority and Women Business participation in City and County contracts pursuant to Resolution 952-82, adopted the Board of Supervisors on December 13, 1982, heard the testimony of forty-two witnesses, and reviewing the transcripts and the written submittals of sixteen minority, women, and small business representatives, hereby submits its Findings:

- a. That the departments and awarding authorities of the City and County of San Francisco are functioning without specific uniform standards and criteria in the award of contracts and leases of the City and County;
- b. That the award of non-construction contracts is mainly at the discretion of the awarding authority staff, resulting in the award process being available to a very limited environment within the business community;
- c. That the in-depth review of prime contracts, leases and other agreements by City departments reveals that Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) received less than three percent (2.8%) of all prime contracts (exclusive of subcon-

tracts) awarded during a base period of 1981 and 1982, and that this represented approximately \$25 million of a total amount in excess of \$869 million for the above-cited years. Moreover, Minority Business Enterprise represent in excess of 30% and WBEs being 10% to 15% of San Francisco firms.

- d. The survey result is an objective standard for holding that such a practice constitutes a de facto form of exclusion of minorities and women-owned businesses from the City and County award process and causes irreparable economic, and social harm to these protected classes of which minorities represent 47% of the population and of which woman represent 45% of the civilian labor force of the City and County;
- e. That the exclusion of MBEs and WBEs will persist unless there is affirmative action on the part of the Board of Supervisors and the Mayor;
- f. That this lack of a policy tends to give preference to majority businesses, to the virtual exclusion of the participation of MBEs and WBEs in the prime award process;
- g. That the competitive bid process as applied to construction and suppliers permits exception within the process which tends to eliminate MBEs and WBEs from an equal opportunity to compete for an equitable share of said

prime awards; and that this process is detrimental to the development, growth, and operation of MBEs and WBEs within the City and County;

- h. The Commission further finds that the exclusion of MBE's and WBE's was due, in part, to the lack of notice of bids and proposals by the limited advertisement and outreach of such business opportunities to the MBE/WBE community;
- i. That other conditions in the general and special bids and proposals, are more often unrelated to actual performance, such as excessive bonding and insurance requirements, are other factors which have the effect of eliminating MBEs and WBEs from a fair chance to bid and compete for prime awards;
- j. That the overall effect of the aforesaid practices has operated in the past, continues to exist, and creates an invidious form of discrimination against minorities and women who seek to operate businesses within the City and County of San Francisco; and
- k. That immediate institution of remedial and corrective actions by enactment of Fair Rules, Procedure, and Legislation by the Board of Supervisors will reduce serious inequities and intergroup tensions that can erode trust in government and reduce the peace and

harmony that must exist between the various ethnic and other protected classes within the City and County of San Francisco.

II. Conclusions

Whether by de jure or de facto actions of various departments, the testimony indicated and the survey confirms a virtual exclusion of Minority and Women-Owned Business Enterprises from participation in the award process for City publicly-financed contracts. Moreover, the testimony from both the public and private sector documented a "business-as-usual" attitude or "old boy network" as the basis for most of the contracting by City and County departments. This attitude was best exemplified by the statements of two departmental representatives: "A firm not having had a contract previously with DPW (Department of Public Works) would probably never get one because prior experience with DPW was a requirement for selection" and "I don't know why this insurance carrier was selected because it predates my involvement and I have been with the department for 30 years. The broker from whom the company was originally selected has long since been deceased." The public testimony contained overwhelming evidence of the unavailability of information on pending contracts and the need for technical assistance to MBEs and WBEs.

The extent of minority and women business participation in City and County awarded prime contracts, agreements, and procurements was determined to be less than three percent (2.87%) of the total dollar amount: \$869,555,541, awarded during the period surveyed. MBE participation in the two base-years was 386 contracts for \$23,520,427, while WBE participation was 120.5 contracts for \$1,456,798. The percentages of dollars awarded were 2.70% for MBEs and .16 of one percent for WBEs. The percentages of the total number of contracts, 9229 were 4.18% for MBEs and 1.30% for WBEs.

Only those departments whose specific charge is to provide funding to non-profit community-based agencies and are funded by the federal government tended to award contracts to minority or women-managed organizations. The pattern exhibited by departments for which the HRC provides contracts compliance monitoring and negotiated affirmative action agreements is that the MBE and WBE participation is almost exclusively at the level of subcontracts. The data reported to HRC was at the time of the prime contract award and ample public testimony was submitted, documenting that many of the subcontractors listed by the prime either were cut out entirely or had their designated share reduced substantially during performance.

The rationale for requiring that the goals be based on prime contracts rather than permitting subcontracts to be credited towards the goal is three-fold: 1. provision for overhead expenses is incorporated into the prime but not subcontract; 2. profit is greater for the prime; and 3. the prime contractor does the selecting, utilization, and ultimate payment of subcontractors. Testimony was presented that once the award had been made, MBEs and WBEs were frequently dropped altogether as subcontractors or their participation was reduced substantially or, further, that excessive charges were assessed against them, thereby reducing their share. Having MBE/WBE goals apply only to subcontracting by the prime may not actually help the very groups which the HRC sought to benefit by affirmative action programs.

The overall numerical participation by minorities and women in City contracts and procurements was 5.49%, while the proportion of total dollar amount of their participation in terms of monies earned was even smaller, 2.87%.

According to the Contract Administrator, Recreation and Park Engineering Division, Department of Public Works, a firm not having had a contract previously with DPW would probably never get one because prior experience with DPW was

a requirement for selection. This was a candid statement, but typical of the custom prevalent in all departments. The preponderance of evidence supported the conclusion that awarding agency staff continually contracts only with known suppliers, putting forth little or no effort to locate or select minority, women-owned, or local businesses.

Most departments in their responses to the HRC stated that the ethnicity of the contractor was unknown to them, demonstrating a lack of sensitivity to or knowledge and awareness of minorities and women. Indeed, it has been charged that some staff have actually discriminated on the basis of race in awarding contracts. Certainly, potential bidders have not found information on pending contracts to be readily available and technical assistance, which would make it feasible for many MBE/WBEs to bid and bid successfully, has not been provided. Even those MBEs/WBEs which are located in San Francisco, pay taxes, and employ local residents, have been denied the opportunity to do business with the City and County of San Francisco in a fair and equitable manner.

III. Recommendations

A. Highlights

The significant points of the recommendations are:

- a. the City and County-wide annual goal shall be not less than 30% for MBEs and 10% for WBEs.
- b. a set-aside program of 10% for MBEs and 2% for WBEs;
- c. a 5% preference for minority and women-owned businesses and a 5% preference for locally-owned business with a 10% preference for local minority and women-owned businesses;
- d. limit competition for negotiated contracts to MBEs and WBEs wherever the departmental goals have not been met;
- e. incorporate departmental goals into quarterly Management by Objective (MBO) targets;
- f. establishment of a revolving fund to assist MBE/WBEs to meet bonding, insurance, and other fee-related requirements;
- g. establish a central office to where all bids, RFPs, and solicitations will be listed;
- h. waive bonding requirements for and/or make advance payments to MBEs and WBEs;

- i. arrange contracting by size and type of work to be performed;
- j. solicit and obtain bids and proposals from MBEs and WBEs;
- k. technical assistance to MBEs and WBEs; and
- l. strict monitoring provisions and the imposition of sanctions.

B. Major Modifications

Establish set-asides of ten percent (10%) of the total dollar value of all contracts to be awarded by each contract awarding authority for MBEs and two percent (2%) for WBEs for the fiscal year.

To the extent permissible under applicable law and where a contract awarding authority does not appear able to achieve its utilization goals by another available alternative, then a contract awarding authority may limit competition for certain negotiated contracts to MBEs or WBEs or both.

When advisable, awarding agencies shall waive bid bonding requirements for and/or make advance payments to MBEs and WBEs.

To the maximum extent feasible and consistent with State law, awarding authorities shall arrange contracting by

size and type of work to be performed. The Mayor and the Chief Administrative Officer shall require departments to adopt procedures and to designate a staff person to be responsible for responding to the HRC and to the requirements of the Ordinance.

C. Implementing Procedures

1. Goals

The City and County-wide annual goal shall be not less than 30% for MBEs and 10% for WBEs.

2. Standards

- (a) Awarding authorities shall solicit and obtain bids and proposals from MBEs and WBEs
- (b) Where subcontracting, the contractor must make every effort to subcontract or to purchase from MBEs and WBEs and contractors shall be required, during the term of the contract, to fulfill the MBE and WBE participation commitments submitted with their bid or proposal;
- (c) Bids and proposals shall identify the particular MBEs and WBEs to be utilized or performing the contract, specifying for each the dollar value of the participation, and the type of work to be performed;

- (d) Where contract supplements, amendments or change orders are made which cumulatively increase the total dollar value of the contract by more than 10% of the dollar value of the original contract, the contractor shall be required to meet the MBE and WBE goals for this increase;
- (e) The HRC shall assist City and County departments and community agencies to increase MBE and WBE participations.
- (f) Each contract awarding authority is to include in its departmental Management-By-Objectives, objective measures for the total dollar amount of prime contracts awarded and the percentage of that dollar amount awarded to minority business enterprises and to women business enterprises;

3. Procedures

- (a) The HRC shall adopt rules and regulations, consistent with this ordinance and the Administrative Code, establishing standards and procedures.

- (b) The HRC shall certify businesses as bona fide minority business enterprises and women business enterprises and maintain a listing of such businesses for use by contract awarding authorities and contractors.
- (c) The awarding authorities shall submit to a central office current bids, Requests for Proposals, and solicitations with sufficient lead time to provide adequate notice and opportunity to MBEs/WBEs to participate.
- (d) The awarding authorities agencies shall provide information and technical assistance to MBEs and WBEs to increase their ability to compete effectively for the award of City and County contracts;
- (e) The HRC shall develop educational programs and otherwise assist MBEs and WBEs.
- (f) For all contracts for public works and contracts for consultant or other services, the contract awarding authority shall furnish the Director of the HRC with an informational copy of all bid conditions and requests for proposals;

4. Monitoring

- (a) The HRC shall review quarterly the progress of departments and awarding authorities toward achievement of their annual goals for the utilization of MBEs and WBEs.

5. Sanctions

- (a) During the term of the contract, any failure to comply with the levels of MBE or WBE participation identified in the bid or proposal shall be considered a material breach of contract.
- (b) The Human Rights Commission shall impose or shall request the contract awarding authority to impose such sanctions or take such other actions as are designed to ensure compliance which shall include:
 - 1. refusal to certify the award of a contract,
 - 2. order the suspension of a contract,
 - 3. order the withholding of funds;
 - 4. order the revision of a contract based upon a material breach of contract provisions pertaining to MBE utilization,

5. disqualification of a bidder, contractor, subcontractor, or other business from eligibility for providing goods or services to the City and County for a period not to exceed two years
6. when the contract awarding official has been determined to be culpable in the finding of non-compliance, that factor is to be communicated to the Mayor or the Chief Administrative Officer.

6. Reporting

The Director of the HRC shall submit an annual report to the Mayor, the Chief Administrative Officer, and the Board of Supervisors on the progress of the City and County toward the MBE and WBE goal, together with an identification of problems and specific recommendations for improving the City and County's performance.

####

APPENDIX

- A. Resolution 952-82 and Letter of Transmittal
- B. Memorandum to John Taylor, Clerk of the Board
- C. Table 1: City Contracts Awarded During Calendar Year 1981 or FY 1981-82 to For-Profit Companies
- D. Table 2: City Contracts Awarded During Calendar Year 1982 or FY 82-83 to For-Profit Companies
- E. Department Responses to Requests for Data
- F. Legal Opinion: Eva J. Paterson
- G. Legal Opinion: Felix Velarde-Munoz
- H. Speakers at the Public Hearings
- I. Analysis of Oral Public Testimony
- J. Persons Submitting Written Testimony
- K. Letter to Departments
- L. Letters of Invitation

CITY AND COUNTY OF SAN FRANCISCO



BOARD OF SUPERVISORS

CITY HALL, SAN FRANCISCO 94102 • TELEPHONE 558-3184

January 10, 1983

RECEIVED
JAN 11 1983

Grant S. Mickins III
Director
Human Rights Commission
1095 Market St., Rm. 501
San Francisco, CA. 94103

SE HUMAN RIGHTS COMM

Dear Mr. Mickins:

For your information enclosed is a copy of Resolution No. 952-82 entitled, "Urging the Mayor to Request the Human Rights Commission to Investigate and Hold Public Hearings with Respect to the Extent of Minority Business Participation in City Contracts and Procurements and to Propose Appropriate Remedial Legislation."

It was adopted by the Supervisors on December 13 and approved by the Mayor December 17, 1982.

Sincerely,

A handwritten signature in cursive script, appearing to read "John L. Taylor".

John L. Taylor
Clerk of the Board

enclosure

(Investigation and Public Hearings)

1 URGING THE MAYOR TO REQUEST THE HUMAN RIGHTS COMMISSION TO
2 INVESTIGATE AND HOLD PUBLIC HEARINGS WITH RESPECT TO THE EXTENT
3 OF MINORITY BUSINESS PARTICIPATION IN CITY CONTRACTS AND
4 REQUIREMENTS AND TO PROMOTE APPROPRIATE REMEDIAL LEGISLATION

5 WHEREAS, the population of the City and County of San
6 Francisco is composed of people of various racial and ethnic
7 groups and

8 WHEREAS, many of these racial and ethnic groups have
9 suffered for many years from economic, social and institutional
10 discrimination in other parts of this country; and

11 WHEREAS, this discrimination has denied them access to
12 participation in the mainstream of the economy; and

13 WHEREAS, the historical disadvantages of minority business
14 enterprises have made it difficult, if not impossible, for them
15 to develop large, efficient organizations able to compete on an
16 equal footing with non-minority enterprises that have had many
17 years to develop the institutional structures and financial
18 acumen to compete in the mainstream of the economy; and

19 WHEREAS, it is the policy of the City and County of San
20 Francisco that the public's resources be expended in a fair and
21 equitable way; and

22 WHEREAS, this policy is intended to ensure to all citizens
23 equal opportunity to reap the economic benefits of doing business
24 with Departments and Agencies within the City and County without
25 regard to ethnic or racial background; and

26 WHEREAS, the Board of Supervisors desires to ensure that
27 access to the benefits of business transactions with the city and
28

1 County not perpetuate the historical disadvantages that minority
2 business enterprises have suffered;
3 NOW, THEREFORE, BE IT RESOLVED that the Board of
4 Supervisors urges that the Mayor to request the Human Rights
5 Commission promptly to investigate and hold public hearings with
6 respect to the extent of minority business participation in City
7 and County contracts and procurements, including but not limited
8 to the purchasing of materials, supplies, equipment, insurance
9 and contractual services contracts, franchises, leases,
10 concessions or other agreements involving real or personal
11 property and contracts involving the repair or construction of
12 public works and improvements, and that the Human Rights
13 Commission report back to the Board of Supervisors its findings
14 and propose appropriate remedial legislation.

15
16
17 Supervisor Dotis Ward
18 Supervisor Willie Kennedy
19 December , 1982

Adopted on date of introduction — Board of Supervisors, San Francisco.

DEC 13 1982

Ayes: Supervisor Billie Dolson, Supervisor Kennedy, Supervisor Molinari, Supervisor Monroe, Supervisor Walker, Ward

Abstain: Supervisor HONGKINGO, BILLY SILVER

I hereby certify that the foregoing resolution was adopted by the
Board of Supervisors of the City and County of San Francisco.

24-22-11
11/18/82
Clerk



March 14, 1983

Mr. John L. Taylor
Clerk of the Board of Supervisors
City Hall, Room 235
San Francisco, CA 94102

Dear Mr. Taylor:

In response to your letter received March 7, 1983 concerning the conduct of the public hearings, I am enclosing a list of those who spoke at the February 24, 1983 hearing as well as at the March 2, 1983 hearing. It is estimated that 110 to 125 were in attendance at the February 24, 1983 hearing while approximately 70 to 75 were in attendance at the March 2, 1983 hearing. Microphones were used throughout the March 2nd hearing and from 10:30 a.m. with the hearing having started at 9 a.m., until its close at 1:15 p.m. Microphones were not used at the beginning of the February 24th hearing because the technician who operates the sound system was not available, however, he was located and instituted the sound system during the last three hours of the hearing. Provision has been made to have a microphone available for the March 24th hearing.

The memorandum to Commissioners re: the February 24th and March 2nd hearings described the process for speakers. Because of the number of people wishing to speak, the February 24th hearing was extended for an hour and quarter, to 1:15 p.m. Those persons not called upon to speak at the February 24th hearing were given first preference on March 2nd. That hearing was extended for an hour and a half, until 8:30 p.m. Everyone who wish was given the opportunity to speak.

Because the Board Resolution 952-82 states in part; to request the Human Rights Commission promptly to investigate and hold public hearings, staff has written 56 departments and/or bureaus on January 26th through February 4th seeking data. In order to determine, as requested by the Board of Supervisors, the extent of minority business participation, representatives of departments which award large numbers of contracts were invited to provide focus for the subsequent testimony of minority and women business enterprises.

Mr. John L. Taylor
Page 2
March 14, 1983

In order to expedite the process, the first of the three scheduled public hearings was scheduled for February 24th. It was anticipated that departmental responses will all be received prior to the conclusion of the hearings.

The implementation of Resolution 952-82 has been very carefully planned. Press releases were distributed to the news media on February 7th and paid public notices appeared in the February 20th issue of the S.F. Examiner and the February 20th and February 27th issues of the S.F. Progress. Information was circulated widely beginning January 24th. Fourteen minority and women business associations were written on February 1st. Beginning February 2nd, packets of information including letters of invitations and the Board Resolution were sent to more than 750 companies and individuals, with names drawn from almost every available source. Copies of the letters and other materials referred to above are available upon request.

Written testimony has been solicited. Two persons: James Jefferson and Wilbur Chinn submitted copies of their testimony, at the February 24th hearing. Written testimony was received from: Dorothy Erickson, Enterprises Construction Management Consultant; Bobbie Sue Hood, Hood Miller Associates; Joan Sandberg, Kathryn Mathewson Associates; Nadine Sponamore, Sponamore Associates; and I P Torrey, Torrey & Torrey Inc.

The HRC has consciously endeavored to respond promptly and thoroughly to the Resolution by the Board of Supervisors.

Sincerely,

Grant S. Mickins
Director

GSM:GR:pa
cc: Mayor Dianne Feinstein
Supervisor Carol Ruth Silver
Supervisor Willie B. Kennedy
Supervisor Doris Ward
James Jefferson, S.F. Black Chamber of Commerce
Wilson Chang, Asian, Inc.
BCC: William King, Office of the Mayor
Terri Simpson, " " " "

Appendix C

TABLE 1: CITY CONTRACTS AWARDED DURING CALENDAR YEAR 1981 OR FISCAL YEAR 1981-1982 to FOR-PROFIT COMPANIES

DEPARTMENTS	# OF CONTRACTS	\$ OF CONTRACTS	# OF MBES	\$ OF MBES	% OF MBFS	# OF WBES	\$ OF WBES	% OF WBE
Adult Probation	0	0	0	0	0	0	0	0
Commission on Aging	NP							
Art Commission	27	706,979	5	181,300	26	9	60,429	9
Asian Art Museum	0	0	0	0	0	0	0	0
Assessor	NP							
Board of Supervisors	2	749,128	0	0	0	0	0	0
California Academy of Science	0	0	0	0	0	0	0	0
Chief Administrative Officer								
Solid Waste Program	NP							
Publicity & Advertising	90	3,600,000	26	294,815	8.2	0	0	0
Risk Management	1	22,542	0	0	0	0	0	0
Convention Facilities	14	8,000,000	3	678,000	8.5	0	0	0
City Architect	See OPW							
City Attorney	13	1,627,300	0	0	0	0	0	0
City Planning	4	40,000	0	0	0	2	4,500	12
Civil Service X	6	129,634	0	0	0	0	0	0
Clean Water Program	26	224,142,733	2	7,233,935	3.5	-	-	-
Construction	(4)	(206,697,528)	(2)	(7,233,935)	(3)	0	0	0
Design Consultant	(22)	(17,445,205)	0	0	0	0	0	0
Community College District	146	1,750,000	27	62,894	3.6	24	11,619	0.7
Controller	114	8,469,630	0	0	0	1	18,000	0.2
District Attorney	0	0	0	0	0	0	0	0
Economic Development Advisory Council	14	302,000	4	75,000	25	5	200,000	66
Electricity	0	0	0	0	0	0	0	0
Emergency Hospital Service	See Public Health							
Emergency Services	0	0	0	0	0	0	0	0

Table 1 - Cont. FY 1981-82

DEPARTMENTS	# OF CONTRACTS	\$ OF CONTRACTS	# OF MBES	\$ OF MBES	% OF MBES	# OF MBES	\$ OF MBES	% OF MBES
Employee Relations	See Board of Supervisors							
Fine Arts Museum	0	0	0	0	0	0	0	0
Fire Department	8	152,740	0	0	0	0	0	0
Health Service System	7	19,386,528	0	0	0	0	0	0
Hetch Hetchy	See PUC							
Juvenile Court	35	10,000	0	0	0	0	0	0
Laguna Honda Hospital	See Public Health							
Law Librarian	30	238,836	0	0	0	0	0	0
Mayor's Criminal Justice Council	NP							
Mayor's Office Employment & Training	101	635,923	29	34,649	6	7	17,403	3
Mayor's Office of Housing &								
Community Development	1	25,000	1	25,000	100	0	0	0
Parking Authority	2	4,497,700	1	1,993,700	44.3	0	0	0
Permit Appeal	0	0	0	0	0	0	0	0
Police Department	8	131,379	0	0	0	0	0	0
Port	NR							
Public Administrator X	2	140,000	1	125,000	89	0	0	0
Public Defender	0	0	0	0	0	0	0	0
Public Health	59	2,032,081	2	11,693	0	0	0	0
Laguna Honda Hospital	5	137,060						
S.F. General Hospital	25	977,121						
Public Library	0	0	0	0	0	0	0	0
Public Utilities	66	10,453,377	0	0	0	1	20,000	0.2
Construction	40	7,667,398	0	0	0	0	0	0
Professional Services	18	2,680,415	0	0	0	0	20,000	(0.8)
Procurement	8	175,564	0	0	0	0	0	0
Public Works								
Construction	402	41,565,267	37	2,458,686	6	0	0	0
City Architect	18	140,150	3	18,917	14			

Table 1 - Cont'd FY 1981-82

DEPARTMENTS	# OF CONTRACTS	\$ OF CONTRACTS	# OF MBES	\$ OF MBES	% OF MBES	# OF MBES	\$ OF MBES	% OF MBE
Purchasing	3216	106,887,393	64	1,862,233	0.7	0	0	0
Purchase Orders	0	(30,619,697)	0	0	0	0	0	0
Term Purchase Agreements	0	(76,267,696)	0	0	0	0	0	0
Real Estate Dev.	4	27,050	0	0	0	0	0	0
Recreation & Park	47 C/L							
Registrar of Voters	0		0		0	0	0	0
Retirement System	8	222,420	0	0	0	0	0	0
S.F. General Hospital	See Public Health							
S.F. Intl. Airport	35	74,124,213	3	81,400	0.1	0	0	0
Contracts	75 C/L							
Sheriff	NP							
Social Services	15	4,523,902	3	143,519	4	6	214,758	5
Special Projects	0	0	0	0	0	0	0	0
Tax Collector	2	NR	0	0	0	0	0	0
Treasurer	2	NR						
War Memorial Bd.	1	205,000	0	0	0	0	0	0
Water Department	2 C/L							
	See PWC							
TOTAL:	4,509	516,053,086	211	15,318,342	2.95	47	549,209	.08

Note: Subtotals marked by () not included in grand total

C/L: Concessions and leases, reported separately as revenue

NP: Contracts awarded only to non-profit groups

NR: None reported

X: Departments did not identify the year, reported in each table

Note: Female minority is double-counted as MBE and WBE

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Appendix 0

TABLE 11: CITY CONTRACTS AWARDED DURING CALENDAR YEAR 1982 OR FISCAL YEAR 1982-1983 to FOR-PROFIT COMPANIES

DEPARTMENTS	# OF CONTRACTS	\$ OF CONTRACTS	# OF MBES	\$ OF MBES	% OF MBES	# OF WDBS	\$ OF WDBS	% OF WDBS
Adult Probation	0	0	0	0	0	0	0	0
Commission on Aging	NP							
Art Commission	34	1,034,530	12	373,600	37	11	47,910	5
Asian Art Museum	0	0	0	0	0	0	0	0
Assessor	NP	0	0	0	0	0	0	0
Board of Supervisors	2	806,799	0	0	0	0	0	0
California Academy of Science	0	0	0	0	0	0	0	0
Chief Administrative Officer								
- Solid Waste Program	7	78,177	3	29,291	37.5	2	16,916	21.6
- Publicity & Advertising	96	3,599,738	24	320,240	9	0	0	0
- Risk Management	1	169,956	0	0	0	0	0	0
- Convention Facilities	5	1,687,600	1	12,500	0.7	0	0	0
City Architect	See OPW							
City Attorney	20	1,716,200	1	35,000	2	0	0	0
City Planning	4	82,772	0	0	0	2	60,670	74
Civil Service X	6	129,634	0	0	0	0	0	0
Clean Water Program	26	6,432,942	2	1,091,658	17	0	0	0
- Construction	(4)	1,356,327	0	0	0	0	0	0
- Design Consultant	(22)	5,076,615	(2)	(1,091,688)	(17)	0	0	0
Community College District	146	1,750,000	27	62,894	3.6	24	11,694	0.7
Controller	114	11,751,401	0	0	0	1	101,495	0.9
District Attorney	0	0	0	0	0	0	0	0
Economic Development Advisory Council	NR							
Electricity	0	0	0	0	0	0	0	0
Emergency Hospital Service	See Public Health							
Emergency Services	0	0	0	0	0	0	0	0

Table 11 Cont'd - FY 1982-83

DEPARTMENTS	# OF CONTRACTS	\$ OF CONTRACTS	# OF MBES	\$ OF MBES	% OF MBES	# OF MBES	\$ OF MBES	% OF MBE
Employee Relations								
Fine Arts Museum	0	0	0	0	0	0	0	0
Fire Department	7	231,560	0	0	0	0	0	0
Health Service System	7	22,894,593	0	0	0	0	0	0
Helch Hetchy	See PUC							
Juvenile Court	35	10,000	0	0	0	0	0	0
Laguna Honda Hospital	See Public Health							
Law Librarian	NP							
Mayor's Criminal Justice Council	NP							
Mayor's Office of Employment & Training	NP							
Mayor's Office of Housing & Community Development	1	25,000	1	25,000	100	0	0	0
Municipal Railway	See PUC							
Parking Authority	1	5,351,200	1	1,172,578	21.9	0	0	0
Permit Appeal	0	0	0	0	0	0	0	0
Police Department	11	2,518,633	0	0	0	0	0	0
Port	63	1,212,619	2	52,560	4.3	0	0	0
Public Administrator X	2	140,000	1	125,000	89	4.5	106,788	9
Public Defender	0	0	0	0	0	0	0	0
Public Health	77	1,994,881	2	8,942	0.4	20	342,380	17
Laguna Honda Hospital	6	299,522	0	0	0	0	0	0
S.F. General Hospital	20	921,598	0	0	0	0	0	0
Public Library	0	0	0	0	0	0	0	0
Public Utilities	66	81,719,582	1	3,613,853	0.4	0	0	0
Construction	49	64,711,464	0	0	0	0	0	0
Professional Services	15	16,042,018	1	3,613,853	23	0	0	0
Procurement	2	936,100	0	0	0	0	0	0
Public Works								
Construction	402	41,565,267	37	2,458,686	6	0	0	0
City Architect	18	140,150	3	18,917	14			

Table 11 - Cont'd FY 1982-83

DEPARTMENTS	# OF CONTRACTS	\$ OF CONTRACTS	# OF MBES	\$ OF MBES	% OF MBES	# OF WRES	\$ OF WRES	% OF WRES
Purchasing	3655	186,819,562	47	2,280,455	1.22	4	13,936	.007
Real Estate Dev.	10	70,331	0	0	0	0	0	0
Recreation & Park	47 C/L	0	0	0	0	0	0	0
Registrar of Voters	0	0	0	0	0	0	0	0
Retirement System	NR							
S.F. General Hospital	See Public Health							
S.F. Intl. Airport	28	951,398	5	11,284	1.6	0	0	0
. Contracts	87 C/L							
Sheriff	NP							
Social Services	13	5,658,113	3	123,480	2	5	205,800	4
Special Projects	0	0	0	0	0	0	0	0
Tax Collector	2	335,765	0	0	0	0	0	0
Treasurer	2	33,600	0	0	0	0	0	0
War Memorial Bd.	NR							
Water Department	See PUC							
TOTAL	4720	353,502,455	175	8,202,085	2.32%	73.5	907,589	.26%

Note: Subtotals marked by () not included in grand total

C/L: Concessions and leases, reported separately as revenue

NP: Contracts awarded only to non-profit groups

NR: None reported

X: Departments did not identify the year, reported in each table

Note: Female minority is double-counted as MBE and WBE

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[TABLE-draft]FAMA

Appendix E: Department Responses to Requests for Data

Here follows a listing of each department or agency to which letters were sent in accordance with Resolution 952-82 and the responses as of 5/18/83.

DEPARTMENT	DATE OF LETTER	INVITATION TO SPEAK	PRESENT AT HEARING	SPOKE AT HEARING	CONFERENCE WITH STAFF	LETTER IN RESPONSE	DATA SUBMITTED	COMMENTS
Adult Probation	2/2/83	none	_____	_____	not needed	2/14/83	2/14/83	No contracting reported
Aging, Commission on	1/26/83	none	_____	_____	phone contact	_____	4/1/83	1981 - 55 contracts 1982 - 54 contracts
Art Commission	2/2/83	none	_____	_____	phone contact	3/23/83	3/23/83	61 contractors, summary of procedures
Asian Art Museum	2/2/83	none	_____	_____	phone contact	_____	2/9/83	32 contracts in 1981-82
Assessor	2/2/83	none	_____	_____	not needed	2/9/83	2/9/83	Contracts with state agencies for audits
Board of Supervisors	2/2/83	none	_____	_____	not needed	2/10/83	2/10/83	No contracting reported; however, has contracts with Mares & Lazarus and Harvey Rose and 1 franchise
California Academy of Science	2/2/83	none	_____	_____	phone contact	2/23/83	2/23/83	Acts as its own agent as a non-profit corporation
Chief Administrative Officer	1/26/83	3/24/83	3/24/83	_____	2/2/83	_____	2/9/83 3/7/83 3/23/83 3/23/83	Data received from: Risk Management, SF Hotel Tax/Publicity & Advn., Solid Waste Management, Convention Facilities
City Architect	3/3/83	2/24/83	3/2/83	3/2/83	phone contact	2/22/83	2/22/83	Data on personnel services' contracts in 1981 & 1982
City Attorney	2/2/83	none	_____	_____	phone contact	4/27/83	4/27/83	13 contracts

DEPARTMENT	DATE OF LETTER	INVITATION TO SPEAK	PRESENT AT HEARING	SPOKE AT HEARING	CONFERENCE WITH STAFF	LETTER IN RESPONSE	DATA SUBMITTED	COMMENTS
City Planning	2/2/03	2/24/03	2/24/03	2/24/03	phone contact	4/4/03	4/4/03	13 contract 1/01-3/03
Level Service	2/2/03	none			phone contact	3/11/03	3/11/03	15 contracts for 1901 & 1902
Clean Water Program	2/2/03	2/24/03	2/24/03	2/24/03	phone contact	2/20/03	3/7/03	1901 & 1902 construction & A/E contracts
Community College District	2/20/03	none			not needed	2/22/03	2/22/02	57 page report listing all contracts for 1901 & 1902
Controller	2/2/03	3/2/03	3/2/03	3/2/03	not needed	2/24/03	2/24/03	114 vendors listed
Convention Facilities	2/2/03	none			phone contact		3/23/03	Reported under CNO
District Attorney	2/2/03	none			phone contact	4/11/03	4/11/03	Purchases in excess of \$50 handled by purchaser except for travel accommodations for witnesses
Economic Development Advisory Council	2/2/03	none			phone contact	5/5/03	5/5/03	11 staff contracts 3 professional staff contracts
Electricity	2/2/03	none			not needed	2/10/03	2/10/03	No contracting reported
Emergency Hospital Service	2/2/03				not needed			Handled through Public Health
Emergency Services	2/2/03	none			phone contact	3/14/03	3/14/03	Revolving fund \$50 or less only purchases
Employee Relations	2/2/03	none			phone contact		3/6/03	Contract with Mares & Lazzaro through Board of Supervisors
Flue Arts Museum	2/2/03	none			phone contact	4/13/03	4/13/03	2 contracts
Fire Department	2/2/03	none	3/24/03		not needed	3/1/03	3/1/03	17 small contracts
Health Service System	2/2/03	none			not needed	2/22/03	2/22/03	7 contracts

DEPARTMENT	DATE OF LETTER	INVITATION TO SPEAK	PRESENT AT HEARING	SPOKE AT HEARING	CONFERENCE WITH STAFF	LETTER IN RESPONSE	DATA SUBMITTED	COMMENTS
Health Policy Water/Tower System	1/16/83				not needed		1/23/83	43 contracts in 81, 16 in 82
Juvenile Court	2/2/83	none			phone contact	2/22/83	2/22/83	35 vendors listed
Laguna Honda Hospital	2/2/83				not needed			Handled through Public Health
Law Librarian	2/2/83	none			2/15/83		2/15/83	Statement of monies received & expended FY 81-82
Mayor's Criminal Justice Council	1/26/83	none			phone contact	3/2/83	3/2/83	Listing of contracts awarded & "rejected" agencies
Mayor's Office of Employment & Training	1/25/83	none	none	none	2/1/83	2/7/83	2/7/83	211 OAT subcontracts, 204 training subcontracts, audit services
Mayor's Office of Housing & Community De- velopment	1/25/83	none			phone contact	2/7/83	2/7/83	1981-1982 final program, listing of rejected proposals
Municipal Rail- way	1/26/83				not needed		3/23/83	16 contracts in 1981 and 13 in 1982
Parking Autho- rity	2/2/83	2/24/83	no	no	phone contact	2/17/83	2/17/83	Letter: IRC reviews all contracts
Permit Appeals	2/2/83	none			not needed	2/7/83	2/7/83	No contracting reported
Police Depart- ment	2/2/83	none			phone contact		3/7/83	No contracting reported
Port	1/26/83	2/24/83	2/24/83 3/2/83	2/24/83 3/2/83	2/15/83	2/7/83	3/25/83	35 contracts, 22 term purchase agreements, 63 Revolving Fund over \$5,000
Public Admin- istration/ Public Guardian	2/2/83	none			not needed	2/8/83	2/8/83	2 contracts

DEPARTMENT	DATE OF LETTER	INVITATION TO SPEAK	PRESENT AT HEARING	SPOKE AT HEARING	CONFERENCE WITH STAFF	LETTER IN RESPONSE	DATA SUBMITTED	COMMENTS
Public Defender	2/2/83	none			not needed	2/11/83	2/11/83	No contracting reported
Public Health	1/26/83	3/2/83	2/24/83 3/2/83		phone contact		3/24/83	1980-81 - 161 contracts 1981-82 - 186 contracts
Public Library	2/2/83	none			phone contact	2/10/83	2/10/83	Revolving fund purchases from role source suppliers
Public Utilities	1/26/83	2/24/83 3/2/83 4/6/83	2/24/83 3/2/83		phone contact	2/1/83	3/23/83	Professional services contracts 15 in 81, 10 in 82 Procurement: 2 in 81 & 8 in 82
Public Works	1/26/83	2/24/83	2/24/83 3/2/83	3/2/83	2/22/83		2/22/83	Contract and informal selections
Purchasing	1/26/83	3/24/83	3/24/83	3/24/83	3/8/83 5/10/83 5/12/83 5/13/83			Minority vendor list, monthly vendor warrant print out, req- ulation form book
Real Estate	2/2/83	3/2/83	no	no	phone contact	3/16/83	3/16/83	4 contracts in 1981, 10 in 1982
Recreation & Park	1/26/83	none			phone contact	4/11/83	4/11/83	70 contracts
Registrar of Voters	2/2/83	none			not needed	2/7/83	2/7/83	No contracts reported
Retirement System	2/2/83	none	none		phone contact	3/23/83	3/23/83	13 contracts
S.F. General Hospital	2/2/83				not needed			Handled through Public Health
S.F. International Airport	1/25/83	2/24/83	2/24/83	3/2/83	Handled by Airport Liaison	1/28/83	2/10/83	Listing of construction & con- sultant contracts & concession- aires - 1981-1982
Sheriff	2/2/82	none			not needed	2/8/83	2/8/83	Only contract: pin-trial diver- sion project

<u>DEPARTMENT</u>	<u>DATE OF LETTER</u>	<u>INVITATION TO SPEAK</u>	<u>PRESENT AT HEARING</u>	<u>SPOKE AT HEARING</u>	<u>CONFERENCE WITH STAFF</u>	<u>LETTER IN RESPONSE</u>	<u>DATE SUBMITTED</u>	<u>COMMENTS</u>
Social Services	1/26/83	3/2/83	3/2/83	3/3/83	3/3/83	5/3/83	5/3/83	34 contracts
Special Projects	2/2/83	none	_____	_____	phone contact	_____	_____	No contracting reported
Tax Collector	2/2/83	none	_____	_____	phone contact	3/11/83	3/11/83	2 contracts: Winks & Wells Fargo Bank
Treasurer	2/2/83	none	_____	_____	phone contact	3/11/83	3/11/83	51 contracts: banks and S & L's 2 other contracts
War Memorial Board of Trustees	2/2/83	none	_____	_____	not needed	2/18/83	2/18/83	4 contracts
Water Department	2/2/83	_____	_____	_____	not needed	_____	_____	36 contracts in 81, 20 in 1982

Appendix F: Legal Opinion: Eva J. Paterson

LEGAL QUESTION PRESENTED: May the City and County of San Francisco and/or any of its political subdivisions devise and implement a minority set aside program which would mandate that a certain percentage of contracts let by various departments be awarded to minority owned business enterprises or women owned business enterprises?

I. Genesis of Race Conscious Remedies

Race conscious affirmative action programs have been authorized by the federal courts since the days of Brown v. Board of Education, 347 US 483 (1954). Once the lower federal courts were faced with the task of integrating the schools of this country, they ultimately ordered that children of certain races be assigned to attend certain schools in order to end state sanctioned segregation. The practice of using racially conscious and numerically based remedies was the only practical means of desegregating the schools. Swann v. Charlotte-Mecklenburg Board of Education, 402 US 1 (1971), Green v. County School Board, 31 US 430 (1968).

The passage of the Civil Rights Act of 1964 which included Title VII, a provision which prohibited employment discrimination involved federal courts in remedying the present effects of past discrimination in the workplace.

Once again the use of racially conscious, numerically based remedies was used. This meant that an employer could be ordered to hire a certain number of Blacks, Hispanics or women in order to provide equity to the victims of illegal discrimination. Many attorneys who advised employers of their obligations under the new Civil Rights laws advised their clients to avoid expensive litigation by voluntarily implementing affirmative action plans which obligate the employer with a bad history of employment groups historically subjected to discrimination, to hire members of said groups in larger numbers than they had previously been hired. In addition, certain educational institutions which had a severe under-representation of women and minorities, adopted special admissions programs aimed at increasing the number of women and minorities who would be allowed access to the educational, social, political, and economic benefits of higher education.

In the mid and late sixties, affirmative action programs were not seen as controversial primarily because the economic pie was big and the economy was in good shape. Jobs were plentiful. Pressure to attend institutions of higher education was not as intense as it is today and almost anyone who wanted to attend graduate school could find a niche. The seventies brought economic uncertainty to the land and competition for diminishing jobs and places in educational institutions increased. One tactic of

disgruntled job seekers and of those who did not get into the educational institution of their choice, was to challenge programs which set aside slots for women and minorities. The results were well-publicized lawsuits such as De Funis v. Odegard, 416 US 312 (1974), Regents of the University of California v. Bakke, 438 US 265 (1978) and United Steelworkers v. Weber, 433 US 193 (1979).

While some limitations on the use of affirmative action programs have been imposed by the courts, the general concept of affirmative actions has been upheld. In the context of a remedy to a piece of litigation, it is black letter law that a court may order or approve the settlement of a lawsuit which involves the imposition of goals and timetable whereby a percentage of women and/or minorities must be hired or promoted as a remedy for the present effects of past discrimination. This concept flows from "make whole" notions which are equity concepts evolved from English common law. The United States Supreme Court has never issued a ruling which prohibited the lower courts from issuing injunctive relief which involved the use of affirmative action criteria and in fact has upheld race conscious remedies. Franks v. Bowman Transportation Company, 424 US 747 (1975), Albemarle Paper Co. v. Moody, 422 US 405 (1975).

The question of the legality of set aside or affirmative actions programs instituted voluntarily by

public institutions was addressed by the United States Supreme Court in Regent of the University of California v. Bakke, 438 US 265 (1978). Justice Powell whose opinion currently represents the law in this area, wrote that racial "preferences. . . have been upheld where a legislative or administrative body charged with the responsibility made determinations of past discrimination by the industries affected and fashion remedies deemed appropriate to rectify the discrimination." Contractors Association of Eastern Pennsylvania v. Secretary of Labor, 442 F.2d 159 (3rd Cir.), cert. denied, 404 US 954 (1971); Associated General Contractors of Massachusetts, Inc. v. Altschuler, 490 F.2d 9 (CA 1 1973), cert. denied, 416 US 957 (1974); cf. Katzenbach v. Morgan, 384 US 641 (1966). Thus, if an agency responsible for dealing with the elimination of discrimination held hearings and found that discrimination had occurred, it could adopt a voluntary affirmative action program with race conscious preferences.

II. The Fullilove Decision

The question of whether or not a public body can adopt race conscious set aside programs in the awarding of government contracts was faced squarely by the United States Supreme Court in the Fullilove case. In late June of 1980, the United States Supreme Court handed down a landmark

decision in the case of Fullilove v. Klutznick, 448 US 448 (1980), in which the Court held that the Minority Business Enterprises (MBE) provision of the Public Works Employment Act's 10% set aside requirement did not violate equal protection under the due process clause of the Fifth Amendment nor Title VI of the 1964 Civil Rights Act. The rationale for this ruling will be discussed later in this memo but the Fullilove decision has been used as justification for upholding the legality of a program adopted by the City of Camden, New Jersey which established a 25% minority hiring goal for city contracts and require that 40% of the labor force in the city public works projects be drawn from city residents. The New Jersey Supreme Court held that the city's actions were constitutional. United Building & Construction Trades Council of Camden County and Vicinity v. Mayor and Council of the City of Camden, New Jersey, 443 A.2d 148 (1982).

A. Rationale for the Fullilove Decision

The Court in Fullilove began its analysis with a discussion of the source of Congressional power for the set aside program and found several sources of this power.

1) Under the spending power and contracting power possessed by Congress, legislators can condition receipt of federal

contracts on compliance with requirements imposed by Congress. 2) The interstate commerce clause was another source of Congressional authority of imposition of a 10% minority set aside program. 3) The final source of Congressional authority cited by the Court was the enforcement clause (Section 5) of the Fourteenth Amendment which gives Congress the right to pass any legislation it deems appropriate to implement and enforce the right to equal protection of the laws articulated in the primary part of the Fourteenth Amendment.

B. Congressional Objectives

One key part of the analysis which led the Court to uphold the constitutionality of the minority set aside program turned on the objectives Congress was seeking to meet by adopting MBE requirements. The Court found that the Congressional objective in passing the set aside program was the elimination of the present effects of past discrimination in the contracting industry. Congress does not have to be color-blind and may use racial/ethnic criteria as a valid means of achieving the aforestated Congressional objective of taking remedial action on behalf of groups which have been historically denied access to the benefits of entrepreneurial work. The Court found that so-called "innocent" non-minority applicants for contracts

under the minority set aside program would have to "share the burden" of remedying the present effects of past discrimination as per Frank v. Bowman Trucking, 426 US 747 (1975).

C. Means of Achieving Congressional Objectives

The Court then went on to consider whether or not the means that Congress employed in devising the MBE program withstood constitutional scrutiny. The standard enunciated by the Court held that the program must be narrowly focused and limited in size, impact and duration. Specific requirements were listed which will be addressed in a latter part of this memo which outlines what components must be in a SF plan in order to be deemed constitutional by a subsequent court challenge.

D. Application of Fullilove Criteria To a SF MBE Set Aside Program

1. In order to establish a minority set aside program, the Human Rights Commission must be able to demonstrate that the program is in furtherance of legitimate administrative objectives, i.e., the elimination of the present effects of past discrimination. Justice Powell's decision in Fullilove sets out a two-pronged test which must be met by governmental bodies such as the HRC. 1) The

governmental body attempting to impose race conscious remedies must have the authority to act in response to identified discrimination. I believe that the authority in the Administrative Code, various city ordinances and the like as well as in the Court of Appeal decision in Alioto Fish Market v. HRC, _____. This prong of the test should be easy to meet given that the HRC is the City agency charged with making equal opportunity a reality in San Francisco. 2) The government body must make finding which demonstrates the existence of illegal discrimination. This finding can be based on hearings or can be based on historical materials generated by the body in question. In addition, statistics can be used to substantiate a finding of illegal discrimination.

2. As was previously stated, the program which the HRC (or any other government body) devises must be limited and must realize the goal of eliminating the present effects of past discrimination. The following are components suggested by the Fullilove decision either explicitly or implicitly.

a) The program must have a narrow focus and must be limited in size, impact and duration.

b) The percentage of the set aside must be tied to the percentage of MBEs in the relevant area.

c) There must be a definition of minority business enterprise both in terms of percent of minority

control and in terms of listing of affected groups. In Fullilove, the affected groups were as follows: "Negroes, Spanish-speaking, Orientals, Indians, Eskimos and Aleuts." In San Francisco, we might want to expand and refine this list by listing all the "Oriental" groups which reside in the City and by including women, Vietnam-Era veterans, gays and lesbians and the physically challenged.

d) The grantee or recipient of the contract from the City must demonstrate that the grantee is in compliance with the set aside proposal.

e) The HRC or the relevancy agency which will be setting aside a certain percentage of contracts for minority business enterprises must provide technical assistance to the MBEs to facilitate the bidding process.

f) MBE bids must be competitive and if they are higher than majority bids they must demonstrate that the reason for their non-competitive bid is based on discriminatory practices.

g) MBEs which have suffered no discrimination are ineligible for the program.

h) Recruitment of MBEs might be another component of the program. Although this criteria is not mentioned in Fullilove, I believe it would enhance the success of the program. If the HRC could compile a list of MBEs in the area and publicize any bids, many more MBEs could benefit from this program.

i) Waiver requirement: It is imperative that the minority set aside provision be waived if no qualified minority contractors are available. This requirement seems to codify the "race-yes; quota-no" holding in Bakke, supra.

E. Conclusion

The Supreme Court has explicitly sanctioned minority set aside programs and special admission programs in Bakke and Fullilove. The programs must be justified by hearings and must be narrowly tailored as previously articulated to withstand constitutional scrutiny.

Appendix G: Legal Opinion

Felix Velarde-Munoz of the Employment Law Center submitted a legal opinion (written by Leslie Rose) regarding the City Charter's language on "Lowest Reliable and Responsible Bidder":

LEGAL QUESTION: Can the language "lowest reliable and responsible bidder" contained in Section 7.200 of the San Francisco charter be interpreted to permit consideration of affirmative action goals for minority owned and women owned businesses?

There are no reported cases that deal specifically with the San Francisco Charter and purchase contracts let by the City. However, there are cases that deal with other California laws using similar "lowest responsible bidder" language that may be dispositive -- or at least relevant -- on this issue.

OLDER CASES

In West v. Oakland, 30 Cal.App. 556 (1916), the City Council rejected the lowest monetary bidder for the construction of the city jail after investigating the merits of the locking devices to be used and finding appellant's lock to be unsatisfactory.

The Court rejected appellant's contention that "lowest responsible bidder" language in the city charter should be construed to permit rejection only when the lowest bidder has been delinquent or unfaithful in a former contract with the city. Stating that this interpretation was too narrow, the court held the term "lowest responsible bidder" to mean:

". . . the lowest bidder whose offer best responds in quality, fitness, and capacity to the particular requirements of the proposed work; and that where by the use of these terms the council has been invested with discretionary power as to which is the lowest responsible bidder, having regard to the quality and adaptability of the material or article to the particular requirements of its use, such discretion will not be interfered with by the courts in the absence of direct averments and proof of fraud. West, Id. at 560. (Emphasis added.)

In Cyr v. White, 83 Cal.App.2d 22 (1947), the Burlingame City Counsel awarded a contract for advertising legal notices to the paper with the largest circulation, rather than to the paper which was the lowest bidder. The court affirmed the choice of the City Council finding that the public interest in having notices in the paper of larger circulation outweighed the importance of low cost and that the City Council should be allowed to take that into consideration.

Both cases stand for the proposition that a specific finding need not be made that the low bidder was not the

lowest responsible bidder, unless fraud was alleged and proven.

West and Cyr seem to demonstrate an unwillingness on the part of the courts to interfere with the discretion of a city council in interpreting its own legislative acts. However, in both instances, the reason for choosing other than the lowest bidder was related to the purpose of the contract itself in a way that affirmative action considerations are not. (In West, the adequacy of the locks seemed to the court to be a quite reasonable consideration in choosing which contractor should build the jail.)

So, the language granting wide discretion to an executive or legislative body may be limited to cases in which rejection is based on "quality and adaptability of material." West, supra, at 560.

NINTH CIRCUIT CASES -- CALIFORNIA EDUCATION CODE §39640

Two recent Ninth Circuit cases discuss affirmative action plans in California public school district contracts. Both construe the low bid law in the California Education Code (§39640) in relation to Board of Education affirmative action plans requiring that a general contractor bidding on a school construction project over \$100,000 must use minority-owned businesses for at least 25% of the dollar amount of the total bid.

The San Francisco affirmative action plan was held invalid because it was inconsistent with the low bid law. The Oakland plan, however, was held to be constitutional by the Ninth Circuit in a case that the U.S. Supreme Court recently remanded on the ground that the Court of Appeals abused its discretion.

In Associated General Contractors of California v. San Francisco Unified School District, 616 F.2d 1381 (9th Cir. 1980), the affirmative action policy under consideration stated that noncomplying contractors were not "responsible bidders" under the low bid law (Calif. Educ. Code §39640 - school contracts must be let to the "lowest responsible bidder"). Relief was available for a noncomplying bidder only when the Board was satisfied that they had "taken every possible measure to comply with the policy," or that it was "not practicable in the best interests of the District to require compliance in the specific case."

The Court of Appeal agreed with the District Court holding that this type of MBE set aside on public works was illegal, except as to projects funded with federal money given on condition that 10% or more of the contract money would go to minority contractors.

In stating that the Board of Education policy was invalid because it conflicted with §39640 which it decided

was constitutional, the Court gave a limiting definition to the "lowest responsible bidder" concept:

" . . . we hold that \$39640 must be construed to prohibit the Board from considering any factor other than the amount of the bid, the minimum qualifications of the bidder as to financial ability and skills to complete the job successfully, and the quality of the bidder's past work. Assoc. General Contractors, Id., at 1385.

They supported this with a California Supreme Court decision holding that an identical competitive bidding statute did not contain a "relative superiority concept" and that "a contract must be awarded to the lowest bidder unless it is found that he is not responsible, i.e., not qualified to do the particular work under consideration."

Inglewood-Los Angeles County Civic Center Authority v. Superior Court, 7 Cal.3d 861, 867 (1972) (Emphasis added by Ninth Circuit.)

In a footnote on the Bakke case, the court acknowledged that a school board may require that bidders not violate anti-discrimination laws. They pointed out, however, that the Board's affirmative action plan is not a state or federal statute, "but merely represents the Board's beliefs on a controversial social question. Refusal to accede to such beliefs is not a ground, under California law, for

exclusion from public contracts." Associated General Contractors, supra, at 1385, fn. 4.

The Court determined that under the circumstances here there was no constitutional duty for the Board or the state to take affirmative action, thus the state law prohibiting it was not unconstitutional. In addition, the statute was found to be facially race-neutral with no showing of discriminatory intent in application or design under the Washington v. Davis test. (At this time, the U.S. Supreme Court had just granted cert. in Fullilove.)

In Schmidt v. Oakland Unified School District, 662 F.2d 550 (9th Cir. 1981), a white general contracting firm which entered the lowest monetary bid was rejected because it was going to subcontract out only 16% of the project to minority business enterprises. The Board of Education's policy required a 25% set aside. The contract was awarded to the next lowest bidder -- a firm which was owned 35% by a black man.

In Schmidt, the Ninth Circuit relied heavily on the plan's adherence to the requirements of Fullilove to hold that it was constitutional. They distinguished Associated General Contractors, supra, on the ground that in the San Francisco case there had been no evidence of prior findings of past discrimination and no administrative waivers available.

The Court of Appeals declined to deal with the state law claim that the plan might be invalid under California Educational Code Section 29640. The U.S. Supreme Court has remanded the case back to the Court of Appeals on this issue, stating that their failure to address the state claim was an abuse of the discretion to be used in pendent jurisdiction cases.

The remand order indicates that until the affirmative action plan is upheld under state law, the federal constitutional issues of Fullilove need not be reached.

So, the Ninth Circuit has been told to decide if a 25% MBE set aside is invalid because inconsistent with state low bid law -- essentially what was done in Associated General Contractors. It appears that to uphold the MBE, the court will have to find more distinguishing factors between the two cases.

Nothing in either decision limits the reasoning used to the education context. Section 39640 contains the same low bid language as other statutes and a holding on it would likely be dispositive as to similar laws in other areas, including the San Francisco City Charter.

OTHER CALIFORNIA CASES

Department of General Services v. Superior Court, 85 Cal.App.3d 273 (1978) held that minority preferences in employment may be valid where there has been a legislative

or administrative finding of prior constitutional or statutory violations resulting in discrimination in the affected industry, and an appropriate remedy formulated to rectify it. The case was remanded to find out whether proper findings were made. (This case was after Bakke and before Fullilove.)

OTHER STATES

Federal courts and other state courts have also dealt with competitive bid statutes and whether their language prohibits affirmative action plans.

As a starting point, several cases have pointed out that the purpose of competitive bidding statutes is the protection of taxpayers rather than the bidders:

"The purpose of bidding is to secure competition, save public funds, and to guard against favoritism, improvidence and corruption. Such statutes are deemed to be for the benefit of the taxpayers and not the bidders and are to be construed for the public good." Gulf Oil Corp. v. Clark County, 575 P.2d 1332 (1978) (See also, J.P. Mascaro and Sons v. Township of Bristol, 497 F.Supp. 625 (D.C. Pen. 1980).)

Support of a MBE goal or set aside program therefore could in part be based on the argument that fostering a system that distributes the city contracts to formerly excluded or historically underrepresented segments of the society promotes the overall interests of all taxpayers by

insuring economic enfranchisement of all segments of the populace.

FEDERAL STATUTE

Central Alabama Paving, Inc. v. James, 499 F.Supp. 629 (M.D. Ala. 1980) and M.C. West, Inc. v. Lewis, 522 F.Supp 338 (D.C. Tenn. 1981) held that Department of Transportation ("DOT") regulations requiring participation of minority and women controlled businesses in highway construction projects did not violate the federal competitive bid statute.^{1/} Both courts stated that the regulations merely established another qualification for responsiveness.

Central Alabama did, however, enjoin enforcement of the regulations on equal protection grounds by relying on the requirements set forth in Fullilove. The regulations were subsequently amended and the M.C. West case found them to be constitutional.

The amended regulations removed the "conclusive presumption" that all bidders who failed to meet specific affirmative action goals did not exert sufficient reasonable

^{1/} 23 U.S.C. §112(b) -- "contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility."

efforts to hire MBEs and were thus precluded from the contract award. Phrased on terms of "good faith efforts" the new regulations gave contractors more guidance in meeting the goals.

This change was enough for the Tennessee court to conclude that, "The MBE and WBE programs of the Secretary of Transportation are valid efforts to promote minority businesses." M.C. West, supra, at 347.^{2/}

WEINER AND PROGENY

Several state cases have upheld requirements in which contractors must provide specific assurances of affirmative action in their own hiring practices before they can be considered in the bidding process.

The Ohio Supreme Court, in Weiner v. Cuyahoga Community College District, 249 N.E. 2d 907 (1969), framed the issue in terms of whether or not a public body could, through the "medium of public improvement contracts", enforce national and local antidiscrimination policies. They concluded that ". . . the capacity to assure a performance which complies with antidiscrimination laws is reasonably a part of the

^{2/} M.C. West also includes extensive discussion of Fullilove and why regs. are procedurally fair, narrowly tailored and developed under proper authority.

standard of a best or responsible bidder on a contract involving the expenditure of public funds." Id. at 910.

Another Ohio case, Dalton v. Kunde, 286 N.E. 2d 483 (1972), relied on Weiner to interpret the competitive bidding requirement in a city charter. The Common Pleas Court of Montgomery County determined that the language "lowest and best bidder" required the administrative officer and the city commission to look at factors beyond the lowest monetary bid in awarding contracts. The Affirmative Action Assurance Plan that each contractor had to submit was a legitimate factor that could be taken into consideration as long as there was no abuse of discretion (i.e., adherence to proper standards and guidelines).

The same conclusion was reached by the Supreme Court of Illinois in S.N. Nielson Co. v. The Public Building Commission of Chicago, 410 N.E. 2d 40 (1980), which also relied on Weiner:

"[6] Finally, Nielsen makes the argument that the Commission's canvassing formula must fall because its application results in the award of contracts to one other than the lowest bidder. It is Nielsen's position that a contractor's commitment to affirmative action has nothing to do with whether it is responsible. The word "responsible" has previously been interpreted in the decisions of this State to mean financially responsible and able to discharge one's obligations" in accordance with what may be expected or demanded under the terms of the

contract." (People ex. rel. Peterson v. Omen (1919), 201 Ill. 59, 67, 124 N.E. 860, 864. See also Hallet v. City of Elgin (1912), 2545 Ill. 343, 346-47, 98 N.E. 530; People ex rel. Assyrian Asphalt Co. v. Kent (1896), 160 Ill. 655, 661-62, 43 N.E. 760.) "We believe, however, that a contractor's commitment to affirmative action is something that "may be expected or demanded under the terms of the contract" within the meaning of the cases above cited. Antidiscrimination statutes such as section 4 of the Fair Employment Practices Act indicate the legislature's intention that, in public contracting, the social responsibility of the contractor should also be a concern. Financial responsibility and the ability to perform the contract are therefore not the only relevant factors, and the fact that a contractor submits the lowest bid will not automatically require that the contract be awarded to the contractor. As McQuillin states in his treatise on municipal corporations, 'In proper circumstances a contract may be awarded to one who is not the lowest bidder, where this is done in the public interest, in the exercise of discretionary power granted under the laws, without fraud, unfair dealing, or favoritism, and where there is a sound and reasonable basis for the award is made.'" (10 E. McQuillin, Municipal Corporations sec. 29.73a, at 429-30 (3d ed. 1966).) Id. at 44.

Although somewhat different than set aside programs instituted by governments in awarding contracts, the reasoning of these cases should be of some supportive value in the MBE/WBE context, at least for definitional purposes (meaning of "lowest responsible bidder").

GOOD CAUSE

In Owen of Georgia, Inc. v. Shelby County, 648 F.2d 1084 (Sixth Cir. 1981), the lowest monetary bidder was rejected because the second lowest bidder employed a higher percentage of minorities and was a local firm. The court held that this did not constitute "good cause" under the competitive bid requirements of the Shelby County Restructure Act:

"All open market purchase orders or contracts shall be awarded to the lowest bidder who is financially responsible, taking into consideration the qualities of the articles to be supplied, their conformity to specifications, their suitability to the requirements of the County government, and the delivery terms. Any and all bids may be rejected for good cause." Id. at 1087.

Relying on a detailed analysis of the statutory language and several theories of construction, Owens stated that rejection for "good cause" had to be based on "factors which go to the heart of the contract. . . the proffered reason must relate to something which affects the county's bargain to substantially the same degree that, for example, inferior quality goods or non-conforming goods affect it." Id. at 1092.

The decision pointed out that the meaning of good cause could be gathered from context and could go beyond what was enumerated in the statute's language. It did, however, have

to refer to factors "of the same genre". In addition, it was viewed as unfair that employment of minorities and locality were "unannounced criteria":

"These concerns are not recognized in state or local statutes, but represent the county's beliefs on controversial social and economic questions." Id. at 1092.

[See Assoc. General Contractors, memo, p. 8.]

Appendix H: Speakers at the Public Hearings

February 24, 1983

Peter LaBrie - City Planning Department

George White - Clean Water Program

Anthony Taormina - Port of San Francisco

James Jefferson - San Francisco Black Chamber of Commerce

Virgilia Talao - Ocampo - Talao Contruction Materials

George Liu - United Asian Contractors Association

Lewis N. Nelson - National Organization of Minority
Architects

Fred Jordan - San Francisco Black Chamber of Commerce

Wilson Chang - Asian, Incorporated

Wilbur Chinn - Asian/American Architects and Engineers

Frank P. Clark - Clark & Yates Associates

Yvonne W. Ladson - Ladson Associates

Samuel Norman - Black Chamber of Commerce & Minority
Subcontractors

Jesse Smith - Construction Control Services Corporation

Gerald Johnson - John Forest Products

Charles Kareen - Tutankhamun Graphics

Katherine Fitz - Fitz Consultants

March 2, 1983

Timothy Marshall - Pacific Economic Resources League

Al Cain - Maxie Transportation

Stan Hall - US Black Chamber of Commerce

Andre Pettigrew - Development Associates
Miles Stevens - Stevens & Associates
Gary Seib - Department of Public Works - Contract
Administration Division
Norman Karasick - Bureau of Architecture
Andy Lee - Department of Public Works - Recreation & Park
Engineering Division
Alfred Williamson - Williams & Associates
Harold Brooks - Business Development, Inc.
Idaree Westbrook - Dyna-Kor Micrographics
Tyrone Cosey - Dyna-Kor Micrographics
Jason Yuen - Bureau of Construction, SF Int'l Airport
Skip Conrad - Business & Finance Dept., SF Int'l Airport
Terry Francois - Roach Pruef
Aileen Hernandez - Hernandez & Associates
Pollo Smith - Abec Medical Company
Bob Cowan - Social Services
Julian Rhine - Controller

March 24, 1983

Drucilla Ramey - Commission on the Status of Women
Lewis Andrew Jeanpierre - CPA
Naomi Gray - Naomi Gray Associates
Eva Jefferson Paterson - San Francisco Lawyers Committee
Benny Wright - General Building Contractor
Robert Tecco - City Purchaser

Bob Gamble - Chief Administrative Officer

Harold B. Brooks - Bayview Towing Association

April 6, 1983

Henry Der - Chinese for Affirmative Action

Celso Ortiz - Attorney

Ernie Lowe - Ernie Lowe & Sons Construction Company

Jim Hangabook - Golden Gate Painting and Decorating

Aristotle Walters, Jr. - A.W.J. Transportation Consultants

Arnold Baker - Public Utilities Commission

Lon Hanke - Associate General Contractors in S.F.

Milton Edelin - City Planning

Diane Alexander - Lattimore Consulting Group

Al Williams - Pacific Management Systems

James Breslin - City Purchaser

Analysis of Oral Public Testimony

NAME	Submitted Proposal or Bid For Contract	Awarded Contract	MBE/WBE Subcontractors Used Only By Prime Contract & Then Dropped	Need MBE/WBE Policy With Strong Monitoring Essential	Affirmative Action Goals Need To Be Revised	Set-asides Recommended	Local Preference Recommended	Direct Assistance Needed For MBEs/WBEs	Assistance With Bonding Needed	Liaison Needed Between MBEs/WBEs & Departments For Information Accessibility	Racial Discrimination Charged	Old Boy Network A Hindrance	MBEs/WBEs Tried Unsuccessfully To Be Contacted By Awarding Agency	Absence of Consistent Policy Abhorred	Lowest Bid Requirements Hurts MBEs/WBEs
James D. Jefferson Pres. Black Chamber of Commerce				X									X		
Virgilia Talao Ocampo-Talao Construction Materials	X		X		X							X			
George Liu United Asian Contractors	X							X	X	X					X
Lewis N. Nelson Nat'l. Org. of Minority Architects			X	X	X									X	
Fred Jordan Jordan/Avent Engineering & Planning firm	X			X			X								
Wilson Chang Asian, Inc. Business Development				X			X			X				X	
Wilbur Chinn Asian/American Architects & Engineers			X	X	X					X				X	

NAME	Submitted Proposal or Bid For Contract	Awarded Contract	MBE/WBE Subcontractors Used Only By Prime Contract & Then Dropped	Need MBE/WBE Policy With Strong Monitoring Essential	Affirmative Action Goals Need To Be Revised	Set-asides Recommended	Local Preference Recommended	Direct Assistance Needed For MBEs/WBEs	Assistance With Bonding Needed	Liaison Needed Between MBEs/WBEs & Departments For Information Accessibility	Racial Discrimination Charges	Old Boy Network A Hindrance	MBEs/WBEs Tried Unsuccessfully To Be Contacted By Awarding Agency	Absence Of Consistent Policy Abhorred	Lowest Bid Requirements Hurts MBEs/WBEs
Frankie Jacobs Gillette Nat'l. Assoc. of Negro Business & Professional Women's Club				X	X					X					
Frank Clark Clark & Yates Associates	X		X	X											
Yvonne Ladson Ladson Associates Consultant	X			X				X	X	X	X	X			
Samuel Norman Black Chamber of Commerce			X	X	X						X				
Jesse Smith Construction Control Services Corp.	X	X*	X	X							X				
Gerald Johnson Johnson Forest Products				X		X			X	X					
Charles Kareen Tutankhamun Graphics	X	X						X							X

<u>NAME</u>	Submitted Proposal or Bid For Contract	Awarded Contract	MBE/WBE Subcontractors Used Only By Prime Con- tract & Then Dropped	Need MBE/WBE Policy With Strong Monitoring Essential	Affirmative Action Goals Need To Be Revised	Set-asides Recommended	Local Preference Recommended	Direct Assistance Needed For MBEs/WBEs	Assistance With Bonding Needed	Liaison Needed Between MBEs/WBEs & Departments For Information Accessi- bility	Racial Discrimination Charged	Old Boy Network A Hindrane	MBEs/WBEs Tried Unsuc- cessfully To Be Contac- ted By Awarding Agency	Absence Of Consistent Policy Abhorred	Lowest Bid Requirements Hurts MBEs/WBEs
Alfred Williamson Williams & Associates - advertising	X			X							X				
Harold Brooks Business Development, Inc.											X	X			
Idaree Westbrook Dyra-Kor Micrographics	X			X						X			X		
Tyrone Gosey Dyra-Kor Micrographics				X											
Terry Francois Roach Pruef	X			X	X						X	X	X		
Aileen Hernandez Hernandez & Assoc. -consulting	X			X		X	X				X	X	X		
Pollo Smith Abec Medical Company				X		X	X						X		

Appendix J: Persons Submitting Written Testimony

Wilbur Chinn, (1), Asian/American Architects and Engineers;
Price M. Cobbs, M.D., Pacific Management Systems;
Constance C. Dennis, Minority Contractors Association of
Northern California;
Dorothy Erikson, D Enterprises;
Naomi Gray, (1), Naomi Gray Associates
Joseph B. Hevia, J. B. Hevia & Co.;
Bobbie Sue Hood, Hood Miller Associates;
James Jefferson, (1), San Francisco Black Chamber of
Commerce;
Kenneth C. Jones, Homita, Allen and Associates;
Thomas F. Lee, Bay Architects Associates;
Julian D. Munoz, Group 4/Architecture, Research and
Planning, Inc.;
Andre N. Pettigrew, (2), Development Associates, Inc.;
Drucilla Ramey, (3), Commission on the Status of Women;
John A. Ramirez, Certified Public Accountant;
William S. Robinson, Towill, Inc.;
Joan Sandberg, Kathy Mathewson Associates;
Nadine Sponamore, Sponamore Associates;
Richard Tom, The Copy Factory;
I. P. Torrey, Torrey & Torrey, Inc.;
Harold T. Yee, Asian, Inc.

- (1) Submitted copies of their oral testimony.
- (2) Submitted supplemental information as requested by the Human Rights Commission.
- (3) Submitted extensive documentation in support of her testimony.

City and County of San Francisco

Human Rights Commission

Office of Contract Compliance

Office of Dispute Resolution



February 16, 1983

SAME LETTER SENT TO ATTACHED LIST: (INDIVIDUALLY TYPED) ORIGINAL

Dear _____:

The Human Rights Commission has been directed to investigate the extent of minority and women business participation in City and County contracts and procurements. Please designate a contact person within your department with whom my staff may meet within the next week in order to obtain the information pertinent to implementing Resolution 952-82.

The data sought is as follows:

1. the names, addresses, and ethnicity of all companies with which your department has or had a contract or a procurement, not handled solely by the City Purchaser, for the 1981 and 1982 calendar years. Also the goods or services provided by each contract or procurement;
2. what procedure: RFP, bid, or other method was used by your department for letting or awarding contracts, franchises, leases, concessions or other agreements;
3. the method of solicitation and the means of publicizing that solicitation; and
4. the names, addresses, ethnicity, and type of business of all other companies considered but rejected.

The Board of Supervisors adopted and the Mayor approved Resolution 952-82: "Urging the Mayor to Request the Human Rights Commission to Investigate and Hold Public Hearings with Respect to the Extent of Minority Business Participation in City Contracts and Procurements and to Propose Appropriate Remedial Legislation." For your information, enclosed are copies of Resolution 952-82 and the letter of transmittal from the Clerk of

February 16, 1983

Page 2

the Board. The Resolve Clause of that Resolution reads:

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors urges her Honor the Mayor to request the Human Rights Commission promptly to investigate and hold public hearings with respect to the extent of minority business participation in City and County contracts and procurements, including but not limited to: the purchasing of materials, supplies, equipment, insurance and contractual services; contracts, franchises, leases, concessions or other agreements involving real or personal property; and contracts involving the repair or construction of public works and improvements, and that the Human Rights Commission report back to the Board of Supervisors its findings and propose appropriate remedial legislation.

The HRC will be holding public hearings on Thursday, February 24th, Wednesday, March 2nd, and Thursday, March 24th. You or your representative will be requested to attend one or more of these hearings and to be prepared to testify. The hearings will be held as follows:

The February 24th hearing will begin at 9 A.M. in Room 30, Board of Education, 170 Fell Street;

the March 2nd hearing will start at 4 P.M. in the Lurie Room of the Main Library; and,

the March 24th hearing will start at 9 A.M. in Room 1202, State Building, 350 McAllister Street.

Three hours has been set aside for each of these hearings. Depending on the response received, we will probably designate each of the meetings for certain departments, eg. Purchasing or areas, eg. construction and professional services.

The implication of the recent U.S. Supreme Court decisions is that public hearings must be held to determine whether or not and to what extent a need exists prior to the development of an MBE/WBE (Minority Business Enterprise/Women Business Enterprise) participation program.

Gail Roberts of the HRC staff will be coordinating this undertaking. You may reach her at the HRC offices or by telephone at: 558-4901. Please contact Mrs. Roberts as soon as possible with the name of your contact person. Because your department has been involved in numerous contracts during the past two years, Mrs. Roberts will attempt to collect the necessary data from the materials supplied by your staff rather than expecting your personnel to compile it all. Therefore, Mrs. Roberts must begin meeting with departments in the immediate future.

February 16, 1983

Page 3

Thank you in advance for your prompt response to this first phase of a large scale inquiry into the extent of minority and women business participation. The success of these hearings will not be ensured without your full cooperation.

Sincerely,

Grant S. Mickins
Director

GSM:GR:pa
Encl/

City and County of San Francisco



Human Rights Commission
Office of Contract Compliance
Office of Dispute Resolution

February 2, 1983

SAME LETTER SENT TO ATTACHED LIST (INDIVIDUALLY SENT)

Dear _____:

The Human Rights Commission has been directed to investigate the extent of minority and women business participation in City and County contracts and procurements. We request from your department the names, addresses, and ethnicity of all companies with which your department has or had a contract or a procurement, not handled solely by the City Purchaser, for the 1981 and 1982 calendar years. Also, note the goods or services provided by each contract or procurement. This data is requested pertinent to implementing Resolution 952-82.

The Board of Supervisors adopted and the Mayor approved Resolution 952-82: "Urging the Mayor to Request the Human Rights Commission to Investigate and Hold Public Hearings with Respect to the Extent of Minority Business Participation in City Contracts and Procurements and to Propose Appropriate Remedial Legislation." For your information, enclosed are copies of Resolution 952-82 and the letter of transmittal from the Clerk of the Board. The Resolve Clause of that Resolution reads:

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors urges her Honor the Mayor to request the Human Rights Commission promptly to investigate and hold public hearings with respect to the extent of minority business participation in City and County contracts and procurements, including but not limited to: the purchasing of materials, supplies, equipment, insurance and contractual services; contracts, franchises, leases, concessions or other agreements involving real or personal property; and contracts involving the repair or construction of public works and improvements, and that the Human Rights Commission report back to the Board of Supervisors its findings and propose appropriate remedial legislation.

February 2, 1983
Page 2

Please indicate what procedure: RFP, bid, or other method was used by your department for letting or awarding contracts, franchises, leases, concessions or other agreements. Describe the method of solicitation and the means of publicizing that solicitation. Provide the names, addresses, ethnicity, and type of business of all other companies considered but rejected..

The HRC will be holding public hearings on Thursday, February 24th, Wednesday, March 2nd, and Thursday, March 24th. The hearings will be held as follows:

The February 24th hearing will begin at 9 A.M. in Room 30, Board of Education, 170 Fell Street;

the March 2nd hearing will begin at 4 P.M. in the Lurie Room of the Main Library; and,

the March 24th hearing will begin at 9 A.M. in Room 1202, State Building, 350 McAllister Street.

Three hours has been set aside for each of these hearings. You or your representative will be requested to attend one or more of these hearings and to testify if you so desire. Please contact Gail Roberts of the HRC staff, who will be coordinating this undertaking, if someone from your department will be in attendance. Mrs. Roberts may be reached at the HRC offices or by telephone at 558-4901.

In order for the HRC to expedite promptly this request of the Mayor, we respectfully request that you provide this information within two weeks of receipt of this letter. Please contact Mrs. Roberts if you have any questions or need any assistance.

The implication of the recent U.S. Supreme Court decisions is that public hearings must be held to determine whether or not and to what extent a need exists prior to the development of an MBE/WBE (Minority Business Enterprise) participation program.

Thank you in advance for your prompt response to this large scale inquiry into the extent of minority and women business participation. The success of these hearings will not be ensured without your full cooperation.

Sincerely,

Grant S. Mickins
Director

GSM:GR:pa
Encl/

City and County of San Francisco

Human Rights Commission

Office of Contract Compliance

Office of Dispute Resolution



SAME LETTER SENT TO: John Walsh, Mary Callahan, Ian White, Arlo Smith

May 17, 1983

Mr. Thad Brown
Executive Director
Criminal Justice Council
City Hall, Room 157
San Francisco, California 94102

Dear Mr. Brown:

Thank you for your response to our February inquiry as to the extent of minority and women business participation in your outside contracting.

Many departments were able to furnish information as to the total dollar amount of their contracting as well as the dollar amounts of MBE/WBE contracts in addition to indicating the number of contracts for each category. We found this information to be very helpful in data analysis because it provides for a more complete understanding of this issue.

Your assistance in the past has been most helpful. We would greatly appreciate your staff furnishing the total dollar amount of all contracts and of MBEs/WBEs for the contracts already identified.

Because HRC staff is completing its data analysis and is in the process of preparing the Findings, we really require this data as rapidly as possible. Thank you in advance for your prompt attention to this request. If you have any questions, please contact Gail Roberts at 558-4901.

Sincerely,

Grant S. Mickins
Director

GSM:GPR:pa

City and County of San Francisco

Human Rights Commission

Office of Contract Compliance

Office of Dispute Resolution



February 2, 1983

Dear Company Representative:

You are invited to testify at a public hearing. The Human Rights Commission has been directed to investigate and hold public hearings to determine the extent of minority and women business participation in City and County contracts and procurements. These hearings are conducted at the request of the Mayor through a Resolution sponsored by Supervisors Kennedy and Ward. The implication of recent U.S. Supreme Court decisions is that public hearings must be held to determine whether or not, and to what extent a need exists prior to the development of an MBE/WBE (Minority Business Enterprise/Women Business Enterprise) participation program.

If MBEs/WBEs are to have an equitable portion of the City and County's contracting dollar, public hearings must be held and must have your attendance and support. This is where your participation is essential. In addition, we would appreciate your giving us the names, addresses, and telephone numbers of all MBE/WBEs with which you are acquainted so that we may contact them. Your participation and testimony is needed whether or not your company has ever had a City contract, submitted a bid or received a solicitation. We need and want to hear from you!

The HRC will be holding public hearings as follows:

Thursday- February 24th hearing will begin at 9 A.M. in Room 30, Board of Education, 170 Fell Street;

Wednesday-March 2nd hearing will start at 4 P.M. in the Lurie Room of the Main Library; and,

Thursday- March 24th hearing will start at 9 A.M. in Room 1202, State Building, 350 McAllister Street.

Three hours has been set aside for each of these hearings. More hearings can be scheduled if necessary. We plan to designate each of the meetings for certain categories, e.g. Purchasing or area, e.g. construction and professional services.

Enclosed is a copy of Resolution 952-82, adopted by the Board of Supervisors and signed by the Mayor; "Urging the Mayor to Request the Human Rights Commission to Investigate and Hold Public Hearings with Respect to the Extent of Minority Business Participation in City Contracts and

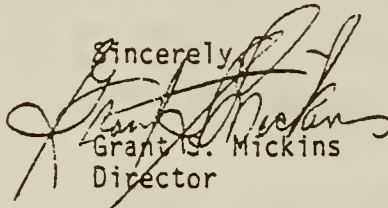
Company Representative
February 2, 1983
Page 2

Procurements and to Propose Appropriate Remedial Legislation." The Resolve Clause of that Resolution reads:

"NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors urges her Honor the Mayor to request the Human Rights Commission promptly to investigate and hold public hearings with respect to the extent of minority business participation in City and County contracts and procurements, including but not limited to: the purchasing of materials, supplies, equipment, insurance and contractual services; contracts, franchises, leases, concessions or other agreements involving real or personal property; and contracts involving the repair or construction of public works and improvements, and that the Human Rights Commission report back to the Board of Supervisors its findings and propose appropriate remedial legislation."

Gail Roberts of the HRC staff will be coordinating this undertaking. You may reach her at the HRC offices or by telephone at 558-4901. Please contact Mrs. Roberts with any questions you may have. In your capacity, we are inviting you or your representative to attend and to testify. Please indicate to Mrs. Roberts when you would like to attend and regarding which area your testimony will focus so that she may schedule your presentation. Written testimony, in addition to or instead of oral presentation is also solicited.

Thank you in advance for your prompt response to this large scale inquiry into the extent of minority and women business participation. Without your participation and full cooperation, this review will not be complete. Please testify!

Sincerely,

Grant S. Mickins
Director

GSM:GR:pa
Encl/

City and County of San Francisco

Human Rights Commission

Office of Contract Compliance

Office of Dispute Resolution



February 18, 1983

Mr. John C. Farrell
Controller
S.F. City & County
City Hall, Room 109
San Francisco, California 94102

Dear Mr. Farrell:

You are respectfully requested to attend the March 2nd public hearing re: contracts, franchises, leases, concessions or other agreements of minority business participation in these City and County contracts. This hearing, convened by the HRC, is to obtain the information pertinent to implementing Resolution 952-82, which was sponsored by Supervisors Willie B. Kennedy and Doris Ward and signed by the Mayor.

The hearing will be held on Wednesday, March 2nd, at 4 P.M. in the Lurie Room of the Main Library. Three hours have been set aside for this hearing.

The format of this hearing will be an introductory statement by the Executive Director, presentations by the department heads or their designees, and statements by minority and women concerns wishing to do business with the City and County. In your remarks, you are requested to provide an overview of your department's procedures for awarding contracts, the efforts made to solicit minority and women business participation, and the departmental goals for such participation. We would appreciate your representative remaining throughout the hearing in order to respond to any inquiries involving your department.

Please contact Gail Roberts of the HRC staff if you have any questions or need any assistance.

We look forward to your participation in the March 2nd public hearing.

Sincerely,

Grant S. Mickins
Director

GSM:GR:pa

